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पुस्तकों पर सर्वप्रकार की निशानियां लगाना अनुचित है ।

कोई विद्यार्थी पन्द्रह दिन से ~~पि~~ पुस्तक नहीं रख सकता ।

गुरुकुल कांगड़ी विश्वविद्यालय  
कृपया पुस्तक के ऊपर कोई निशान आदि  
न लगाये ।







THE BENGAL REGULATIONS,  
THE ACTS OF THE GOVERNOR-GENERAL  
IN COUNCIL,

AND

THE FRONTIER REGULATIONS  
MADE UNDER THE THIRTY-THIRD OF VICTORIA, CHAPTER THREE,  
APPLICABLE TO THE PUNJAB,  
WITH NOTES AND AN INDEX,

BY

H. T. RIVAZ,  
OF THE INNER TEMPLE, BARRISTER-AT-LAW.

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IN 3 VOLS.

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VOL. II.  
CONTAINING ACTS FROM 1873 TO END OF 1882.

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# ACTS OF THE GOVERNOR-GENERAL IN COUNCIL.

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# THE ACTS

## OF THE

### GOVERNOR-GENERAL IN COUNCIL

### APPLICABLE TO THE PUNJAB.

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#### ACT No. V of 1873.

*(Passed on the 28th January 1873).*

An Act to amend the Law relating to Government Savings Banks.

Preamble.                      Whereas it is expedient to amend the law relating to the payment of deposits in Government Savings Banks ; It is hereby enacted as follows :—

#### *Preliminary.*

Short title.                      1. This Act may be called “ The Government Savings Banks Act, 1873 ” :

Local extent.                      It extends to the whole of British India.

#### 2. *Repealed by Act XII of 1873.*

Interpretation clause.                      3. In this Act—

“ Depositor ” means a person by whom, or on whose behalf, money has been heretofore, or shall be hereafter, deposited in a Government Savings Banks, and “ deposit ” means money so deposited :

“ Secretary.”                      “ Secretary ” includes every person empowered to manage a Government Savings Bank :

“ Minor.”                      and “ Minor ” means a person who has not completed the age of eighteen years.

#### *Deposits belonging to the Estates of deceased Persons.*

Payment on death of depositor.                      4. If a depositor dies, leaving in a Government Savings Bank a sum of money not exceeding one thousand rupees,



and if probate of his will or letters of administration of his estate, or a certificate granted under Act No. XXVII of 1860 (*for facilitating the collection of debts on successions, and for the security of parties paying debts to the representatives of deceased persons*), is not produced to the Secretary of such Bank within three months of the death of the said depositor, the Secretary of such Bank may pay the said sum of money to any person appearing to him to be entitled to receive it, or to administer the estate of the deceased.

Payment to be a discharge.

5. Such payment shall be a full discharge from all further liability in respect of the money so paid:

But nothing herein contained precludes any executor or administrator, or other representative of the deceased, from recovering from the person receiving the same the amount remaining in his hands after deducting the amount of all debts or other demands lawfully paid or discharged by him in due course of administration.

Saving of right of executor.

And any creditor or claimant against the estate of the deceased may recover his debt or claim out of the money paid under this Act, or the said Act No XXVI of 1855, to any person, and remaining in his hands unadministered in the same manner and to the same extent as if the latter had obtained letters of administration of the estate of the deceased.

Saving of right of creditor.

6. The Secretary of any such Bank may take such security as he thinks necessary from any person to whom he pays any money under section four for the due administration of the money so paid,

Security for due administration.

and he may assign the said security to any person interested in such administration.

7. For the purpose of ascertaining the right of the person claiming to be entitled as aforesaid, the Secretary of any such Bank may take evidence on oath or affirmation according to the law for the time being relating to oaths and affirmations.

Power to administer oath.

Any person who, upon such oath or affirmation, makes any statement which is false, and which he either knows or believes to be false or does not believe to be true, shall be deemed guilty of an offence under section one hundred and ninety-three of the Indian Penal Code.

Penalty for false statement

8. Where the amount of the deposit belonging to the estate of a deceased depositor does not exceed one thousand rupees, such amount shall be excluded in computing the fee chargeable, under the Court Fees' Act, 1870, on the probate or letters of administration, or certificate, (if any), granted in respect of his property:

Deposit when excluded in computing Court Fees.

Provided that the person claiming such probate or letters or certificate shall exhibit to the Court authorised to grant the same a certificate of the amount of the deposit in any Government Savings Bank belonging to the estate of the deceased. Such certificate shall be signed by the Secretary of such Bank, and the Court shall receive it as evidence of the said amount.

9. Nothing hereinbefore contained applies to money belonging to the estate of any European officer, non-commissioned officer, or soldier dying in Her Majesty's service in India, or of any European who, at the time of his death, was a deserter from the said service.

Act not to apply to deposits belonging to estates of European soldiers or deserters.

*Deposits belonging to Minors.*

10. Any deposit made by, or on behalf of, any minor, may be paid to him personally, if he made the deposit, or to his guardian for his use, if the deposit was made by any person other than the minor, together with the interest accrued thereon.

Payment of deposits to minor or guardian.

The receipt of any minor or guardian, for money paid to him under this section, shall be a sufficient discharge therefor.

11. All payments of deposits heretofore made to minors or their guardians by any Secretary of a Government Savings Bank shall be deemed to have been made in accordance with law.

Legalization of like payments heretofore made.

*Deposits belonging to Lunatics.*

Payment of deposits belonging to lunatics.

12. If any depositor becomes insane or otherwise incapable of managing his affairs,

and if such insanity or incapacity is proved to the satisfaction of the Secretary of the Bank in which his deposit may be,

such Secretary may, for time to time, make payments out of the deposit to any proper person,

and the receipt of such person, for money paid under this section, shall be a sufficient discharge therefor.

Where a Committee or Manager of the depositor's estate has been duly appointed, nothing in this section authorizes payments to any person other than such Committee or Manager.

*Deposits made by Married Women.*

13. Any deposit made by or on behalf of a married woman, or by or on behalf of a woman who afterwards marries, may be paid to her whether or not the Indian Succession Act, 1865, section four, applies to her marriage; and her receipt for money paid to her under this section shall be a sufficient discharge therefor.

Payment of married women's deposits.

*Rules.*

14. All certificates under section eight, and all payments under section ten, section twelve, or section thirteen, shall be respectively granted and made by the Secretary of the Bank subject to such rules consistent with this Act as the Governor-General in Council may, from time to time, prescribe.

Rules regulating certificates under section 8, and payments under section 10, 12, or 13.

NOTES.—(a). Government District Savings Banks have now been merged in Post Office Savings Banks from 1st April 1886. See Government of India Resolution No. 33, dated 4th January 1886. Also Savings Banks of District Treasuries managed by the Banks of Bombay and Madras from 1st June 1886. See Resolution No. 1471, Gazette of India of 26th March 1886.

(b).—RESOLUTION—By the Government of India, Department of Finance and Commerce.  
Read—

Resolution by the Government of India, Department of Finance and Commerce,  
No. 1199, dated 12th March 1886, prescribing revised rules for the guidance  
of depositors in Post Office Savings Banks.

RESOLUTION.—In supersession of all existing orders on the subject, the Governor-General  
in Council is pleased to prescribe the following revised rules for the guidance of depositors  
in the Post Office Savings Banks:—

# RULES FOR THE GUIDANCE OF DEPOSITORS IN POST OFFICE SAVINGS BANKS IN INDIA.

## DEFINITIONS.

1. For the purposes of these rules—

*Deposit* means money paid into a Post Office Savings Bank by, or on behalf of, a  
 depositor.

*Depositor* means the person by whom, or on whose behalf, money is deposited.

*Account* means the account of a depositor in a Post Office Savings Bank.

*Balance* means the balance at credit of an account.

*Minor* means a person who has not completed the age of 18 years.

*Guardian* includes a father, or, if the father be dead, a mother, or if both parents be  
 dead, and no guardian of the minor has been appointed by will or deed or under any enact-  
 ment for the time being in force in British India, any adult relation of the minor with  
 or by whom the minor is residing or being maintained.

*Postmaster-General* means the chief postal authority in any province or place to which the  
 system of Post Office Savings Banks is extended.

## OBJECT OF GOVERNMENT IN ESTABLISHING POST OFFICE SAVINGS BANKS.

2. The object of Government in establishing Post Office Savings Banks is to provide  
 a ready means for the deposit of savings, and so to encourage thrift. Savings Banks are not  
 to be used for the purpose of keeping a current account, and the Comptroller, Post Office, is  
 empowered to close an account should he have reason to believe that the depositor has used  
 the Savings Bank for a purpose for which it was not intended.

## BUSINESS HOURS.

3. Post Office Savings Banks will be open for the transaction of business between the  
 hours of noon and 4 P. M. every day, with the exception of Sundays, Christmas Day, New Year's  
 Day, Good Friday, and the Queen's Birthday. These hours may, under the authority of  
 the Postmaster-General, be altered to suit local circumstances.

## POSTAL OFFICIALS BOUND TO SECRECY.

4. The officers of the Postal Department engaged in the receipt or payment of deposits,  
 are not allowed to disclose the name of any depositor, or the amount deposited or withdrawn  
 by him, except to the Postmaster-General or other officers of the Department engaged in  
 carrying out the provisions of these rules.

## PERSONS WHO MAY DEPOSIT MONEY.

5. Any person may deposit money in a Post Office Savings Bank (a) on his own  
 behalf, or (b) on behalf of any minor relative, or (c) on behalf of any minor of whom he is  
 the guardian.

*Explanation.*—Minors are allowed to deposit money in their own names, and women,  
 whether married or single, are allowed to deposit money in their own names, but subject,  
 in the case of married women, to the limitation laid down in Rule 6.

## LIMITATIONS AS TO OPENING ACCOUNTS.

6. (i) Any person may open an account in his own name, but may not have more than  
 one such account open.

(ii) In addition to the account which a person may open in his own name, he may open  
 any number of separate accounts on behalf of any minors related to him or of whom he is  
 the guardian, provided that he shall not open more than one account on behalf of each such  
 minor.

(iii) The fact that an account has been opened on behalf of a minor shall not prevent  
 such minor from opening an account in his own name; nor shall the fact that a married man  
 has an account in his own name prevent his wife from opening a separate account in her own  
 name, provided the money to be deposited by her is her own property or earning.

NOTE A.—This rule is not meant to prevent any one from opening more than one *ex-officio*  
 or public account (*vide* rule 10).

NOTE B.—Warrant and Non-Commissioned Officers and men serving in British Regiments  
 can open accounts in Post Office Savings Banks, even though already depositors in Military  
 Savings Banks.

7. Deposits in trust are not allowed, and cannot be recognized.

8. Money cannot be deposited in the name of two or more persons jointly, provided that nothing in this rule shall prevent the deposit of money in the name of a known firm, or to the credit of a public account admissible under rule 10, including security deposit accounts.

9. The smallest sum of money that can be deposited at any time is four annas; and no sum can be deposited that is not a multiple of four annas. A depositor cannot deposit a larger sum than five hundred rupees in all between the 31st March of any year and the 1st April of the following year.

NOTE A.—The limit of Rs. 500 is to be reckoned irrespective of withdrawals, that is, withdrawals are not to be deducted in applying it.

NOTE B.—The limit of Rs. 500 may be exceeded—

(1) in the case of Public Accounts;

(2) in the case of Regimental and Police Accounts.

NOTE C.—When an account is transferred from one Savings Bank (whether Post Office or Presidency) to another, the amount so transferred shall not be included in calculating the limit of Rs. 500, save that portion of it deposited in the current year.

NOTE D.—Deposits made for the purpose of immediate investment in Government Securities are not reckoned in calculating the limit of Rs. 500.

NOTE E.—The limit of 4 annas as the minimum sum that can be deposited, and the prohibition against depositing any sum that is not a multiple of 4 annas, do not apply to Public Accounts and Regimental and Police Accounts.

#### PUBLIC ACCOUNTS

10. The following conditions govern the opening of "Public Accounts":—

- (a). Accounts may be opened by Officers of Government who have charge of money, as Secretaries or Managers of Dispensary, Church, or other religious institution, School, Orphanage, Asylum, or Library Funds, or any funds contributed for purposes other than the private advantage or amusement of the contributors. Race, Racquet, Billiard, Mess, and similar funds, whose objects are of a private or personal nature, are not within this definition, and such accounts may not be admitted. Band Funds may be admitted if there is no private bank in the place.
- (b). Secretaries and Managers of Dispensary and similar funds (as above mentioned), if they are not officers of Government and the institution is not subject to Government control, can be allowed Savings Bank accounts only if there is no respectable private bank of deposit in the place.
- (c). Secretaries and Managers of Benevolent Funds (that is, funds formed by mutual subscription as an insurance against domestic misfortune) may be allowed accounts.
- (d). Officers of Government or of public institutions, such as Railway and Steamer Companies, and the like, who collect subscriptions, voluntary or departmental, from their subordinates for departmental purposes, may be allowed accounts.
- (e). Government officials and others who are required by Government to deposit security may be allowed a separate account for the security deposit only. The depositor will be required to sign a letter (in the prescribed form) addressed to the Postmaster undertaking not to make any claim on the Post Office Savings Bank for the principal of the sum deposited except with the express written sanction of the person referred to in the letter to whom the security is pledged; not to object to the payment by the Bank of the principal to such person on his claiming it, and not to make any claim for interest after interest has ceased to accrue owing to the payment of the principal to such person. Interest on security deposits will be paid in the usual manner.

NOTE.—A person may open a security deposit account either on his own behalf or on behalf of another person. Security deposit accounts may be opened in the joint names of the persons undertaking the same work or contract. A person undertaking more than one work or contract at the same time may be allowed a separate account in respect of each. Security may be deposited in a single sum or in instalments.

- (f). Public accounts of the kind specified above must be designated by a name indicating the object to which the money is devoted, as *A—pore Dispensary Fund, Workmen's Sick Fund, &c.* They are exempted from the rules fixing 4 annas as the smallest sum that can be deposited or withdrawn and prohibiting the deposit or withdrawal of any sum that is not a multiple of 4 annas, and also from the rule limiting the amount of deposit within one year to Rs. 500 (provided the deposit is the *bond fide*

income of the fund), and interest will be paid upon their full balance, notwithstanding that it exceeds Rs. 9-6 a month. But a reduction of balance by more than Rs. 3,000 within twelve consecutive months will not be permitted, unless the Secretary or Manager gives six months' notice of his intention to make additional withdrawals, such notice to specify the precise amount to be withdrawn.

11. No account may be allowed for money—
  - (1) which is the property of Government, or
  - (2) which has been received for credit of Government, or
  - (3) which has been drawn from the treasury for expenditure on account of Government, or
  - (4) which is collected or received or held in trust by any public officer or court in accordance with any law, or
  - (5) which is raised by taxation, either local or municipal.

#### REGIMENTAL AND POLICE ACCOUNTS.

12. The Commanding Officer of a native regiment may open a single account with the Post Office Savings Bank on account of the men of his regiment, making his own arrangements about the separate accounts of the individuals, and about the distribution to them of the interest credited upon the conjoint account. This account shall be subject to the usual rules, save that the limits of Rs. 500 for deposits and of Rs. 9-6 for monthly interest and the rules fixing 4 annas as the smallest sum that can be deposited or withdrawn and prohibiting the deposit or withdrawal of any sum that is not a multiple of 4 annas, shall not apply. But except with the special sanction of the Director General of the Post Office, a reduction of balance by more than Rs. 3,000 within twelve consecutive months will not be permitted unless the Commanding Officer gives one month's notice of his intention to make additional withdrawals, such notice to specify the precise amount to be withdrawn. The Commanding Officer must, in presenting any deposits, sign a certificate that, to the best of his belief, the money is the property of the men of the regiment. District Superintendents of Police may have accounts under this rule on account of men in the police force.

*N. B.*—This rule shall not be held to prevent any Native soldier, or any member of the police force, opening an account of his own in his individual capacity.

#### POWERS TO WITHDRAW MONEY, AND LIMITATIONS AS TO WITHDRAWAL.

13. A depositor can withdraw money from his account once a week. By the term "week" is meant the period from Monday to Saturday, both days inclusive. A depositor can, therefore, withdraw money from his account on Saturday and again on the following Monday.

14. A minor can withdraw money deposited by him in his own name; but money deposited on behalf of a minor can only be withdrawn during his minority by his guardian.

15. Women, whether married or single, can withdraw money deposited by them in their own names; and married women can also withdraw money deposited by them as single women in their own names, their marriage notwithstanding. The fact that a female minor on whose behalf money has been deposited, is married or becomes married after the account has been opened on her behalf, shall not prevent her from withdrawing the money so deposited on attaining majority.

16. A depositor cannot withdraw a smaller sum than four annas, and he cannot withdraw any sum which is not a multiple of four annas, unless it be to close his account, in which case he can withdraw the balance at his credit.

*Note.*—The above restrictions do not apply to Public Accounts or Regimental and Police Accounts.

#### HOW TO OPEN AN ACCOUNT.

17. Any person wishing to open an account should apply to the nearest Post Office that is a Savings Bank. Application need not necessarily be made in person; but the applicant must state his name, his occupation or profession, and his place of residence. If he be a native, he must also state his father's name and caste.

18. The intending depositor must sign a declaration, in the following form, that he has read and accepted the Post Office Savings Banks Rules. If he be unable to write, he must attend personally, and, in the presence of a witness, affix his mark or seal to the declaration, to be attested by the signature of the witness. If he should apply in person, a copy of these rules will be given to him to read, or they will be read and explained to him, should he be unable to read. If he should not apply in person, a copy of these rules with the form of declaration will be sent to him, and he must present the declaration, duly signed, with the first deposit.

*Form of Declaration to be signed by Depositor on making first deposit.*

I hereby declare that the Post Office Savings Bank Rules have been read { by me } and that I accept them as binding upon me { to me },

I further declare that I have no account in my own name at any Post Office or Presidency Savings Bank.

19. Women may open accounts in their own names through their agents, or if they are married women, through their husbands or agents. The agent or husband will be required to sign the declaration that the depositor understands and accepts the rules.

20. When the declaration is presented, duly signed, with the amount of the first deposit, or when it has been signed by a depositor attending in person to make a deposit, the amount of the deposit will be entered in a Pass-book, which will be supplied to the depositor, and the entry will be initialed by the Postmaster, and stamped with the office stamp. The depositor will be required to sign a receipt for the Pass-book, and to give a specimen of his signature in a book which will be kept in the Post Office. If the depositor does not attend in person he must send a specimen of his signature on a slip of paper to the Post Office.

21. If the account be opened at a Sub-Post Office, the Pass-book for the depositor will have to be obtained from the Head Office. A preliminary receipt for the amount of the first deposit will, therefore, be given to the depositor, who will be informed of the date on which he should call to receive the Pass-book. When the Pass-book is handed over to the depositor, he will be required to return this preliminary receipt, and to sign a receipt for the Pass-book in addition to leaving a specimen of his signature on record in the Post Office. The amount of the original deposit will be entered in the Pass-book at the Head Office, and the depositor will therefore have a guarantee that the sum has been received in that office. He should be careful to see that the entry in the Pass-book corresponds with the amount entered in the preliminary receipt before giving up the latter.

## PASS-BOOK AND ITS IMPORTANCE.

22. The Pass-book will show, in the vernacular of the district or in English, as the depositor may wish, the number of his account, with the name of the officer from which the book is issued, his own name, occupation or profession, and address. No deposit can be made, and no money can be withdrawn, from an account without its production, and the Post Office will not be responsible for any sum not acknowledged in the Pass-book. Depositors should carefully examine their books before leaving the offices, and ascertain that the entries are correct. They should also be careful to keep their Pass-books in their own possession, as the Post Office will not be responsible for any loss caused to a depositor, if any person shall obtain possession of the book, and fraudulently obtain the payment of any sum belonging to the depositor.

NOTE.—In case of an account opened at a Sub-Post Office the Pass-book will be sent to the Head Office twice in each year, firstly as soon as possible after the 15th Jun<sup>y</sup> when the Pass-book is presented for entry of interest under Rule 31; and secondly on the first occasion on which the account is operated upon during the quarter ending 31st December. The depositor will obtain a receipt in exchange for his pass-book and he must give up this receipt when his pass-book is returned to him.

## LOSS OF PASS-BOOK.

23. No charge will be made for the book at first supplied to a depositor, or for any book issued to him in continuation of the original book which will be retained by the Post Office. But if a book be lost or spoiled (except under circumstances over which the depositor has no control), or if any account be re-opened with the permission of the Comptroller, Post Office, before the expiration of three months from the date of closure (under rule 35), the depositor will have to pay one rupee for a fresh book.

## MODE OF DEPOSITING MONEY AFTER AN ACCOUNT HAS BEEN OPENED.

24. A depositor may deposit money at the Post Office at which his account stands as often as he wishes, so long as the prescribed yearly limit is not exceeded. All that he is required to do is to take or send the amount to be deposited with his Pass-book to the Post Office. The amount of his deposit will be entered in the Pass-book, and the balance struck as shown below. The entry will then be initialed by the Postmaster, and stamped with the dated stamp of the office, and the Pass-book returned :—

Date.	Dated stamp of the Post Office.	Amount of each deposit or withdrawal (to be entered in words).	Amount deposited.	Amount withdrawn.	Balance at credit of the Depositor.	Initials of the Postmaster.
1888.			<i>R. a. p.</i>	<i>R. a. p.</i>	<i>R. a. p.</i>	
3rd April .	...	Deposited ten rupees . .	10 0 0	...	10 0 0	A.B.C.
15th „ . .	...	Deposited twenty-five rupees ...	25 0 0	..	35 0 0	A.B.C.
12th May .	...	Withdrawn three rupees ... ..	.	3 0 0	32 0 0	A.B.C.

25. If the amount be deposited at a Sub Post Office, the depositor will receive, in addition to the receipt in his Pass-book, an acknowledgment from the Head Office, which will generally be the office at the headquarters station of the district. This acknowledgment will be delivered to him in ordinary course through the Post Office. If it should not reach the depositor in proper time, or if, when it reaches him, it should show any signs of erasure, or should not agree with the entry in the Pass-book, the depositor should immediately apply to the Postmaster of the Head Office the name of which is in the Pass-book, and renew his application again and again until he receives a satisfactory reply.

#### MODE OF WITHDRAWING MONEY.

26. When a depositor wishes to withdraw money, he must present his Pass-book personally or by agent (whose name must be entered in the application for withdrawal) at the Post Office at which his account stands, with a printed form of application for withdrawal, which can be obtained at the Post Office, signed by himself, and showing the balance at his credit and the amount which he wishes to withdraw. If he is unable to write, he must attend personally and affix his mark or seal to the application, to be attested by the signature of a witness. Should he be absolutely unable to attend personally, he must have his mark or seal affixed to the application, and attested by some respectable witness, and the Postmaster will make payment to the person presenting this application with the Pass-book, after satisfying himself, by such inquiry as he may think proper, of the inability of the depositor to attend, and of the genuine character of the application.

27. Should any person other than the father, or if the father is dead, the mother, wish to withdraw money from an account opened on behalf of a minor and claim to do so as guardian of such minor, he will be required to fill in, on a prescribed form, answers to the following questions and will only be allowed to withdraw money on the order of the Postmaster-General in accordance with rule 40:—

(a) What is your relationship to the minor?

(b) Is the father or mother of the minor dead, or are both parents dead? What near relatives of the minor are alive?

(c) Have you been appointed guardian of the minor by will or deed or under any enactment in force in British India? (If the reply to this question is in the affirmative the applicant should produce the documents on which he relies to support his claim).

(d) Are you an adult relative of the minor, and does he reside with you or is he maintained by you?

NOTE.—In the case of withdrawals made from accounts opened on behalf of minors the father or other guardian of the minor must sign the following certificate on the application for withdrawal:—

“Certified that the amount sought to be withdrawn is required for the use of the minor.”

28. The amount to be withdrawn will be entered in the Pass book and a fresh balance struck, as in the case of a deposit, under the initials of the Postmaster and the dated stamp of the office. The amount will then be paid to the depositor or to the person presenting the Pass-book and application, and his receipt taken, in all cases without a receipt stamp, on the Warrant of Payment.

29. If the amount be withdrawn at a Sub-Post Office, payment cannot be made until a Warrant of Payment is received from the Head Office.\* The depositor, therefore, or other person presenting the Pass-book and application, will be informed of the date on which he should come to the Post Office to receive payment, and will have the Pass-book returned to him. On presentation of the Pass-book on that date or any subsequent date after the arrival of the Warrant of Payment, the amount will be paid to the depositor, or other person presenting the Pass-book, and his receipt taken, in all cases without a receipt stamp, upon the Warrant. The necessary entries will then be made in the Pass-book, under the initials of the Sub-Postmaster and attested by the stamp of the office.

\* NOTE.—Except in the case of certain selected Sub-Offices which are authorized to grant Warrants of Payment.

#### INTEREST.

30. Interest will be allowed at the rate of 3½ per cent. per annum, until further orders, on all deposits, subject to the conditions of this rule. This interest will be allowed for each calendar month on the lowest balance at credit of an account between the close of the fourth day and the end of the month: provided that interest shall only be calculated at the rate of three pica a month on every complete sum of five rupees: provided also that no higher monthly interest than Rs 9-6-0 shall be allowed on the balance of any account, except as provided for under Rules 9, 10, and 12.

31. The interest calculated as above for each month will be added to the balance of each account after the 15th of June of each year. Depositors will be called upon to present their Pass-books in order that the necessary entries may be made in them. If the Pass-book be not presented for this purpose, in response to the notice sent by the Post Office to the depositor, the entry will be made on the next occasion when a deposit is made or when money is withdrawn.

NOTE.—Pass-books of depositors in Sub-Post Offices will be sent to the Head Office for the purpose of adding interest under this rule.

#### TRANSFER OF ACCOUNTS.

32. A depositor may have his account transferred free of charge to any Post Office that is a Savings Bank, *provided that the account shall have been in existence for three months previous to the transfer*. If he should wish to transfer his account, he must present his Pass-book at the Post Office personally, or send it with a written application for transfer. The Pass-book will be returned to the depositor who should present it as soon as possible at the Post Office to which his account has been transferred. A depositor in a Presidency Savings Bank may, by application to the Presidency Savings Bank, have his account transferred, free of charge, to any Post Office Savings Bank.

#### CLOSING AN ACCOUNT.

33. When a depositor wishes to close his account, he must present his Pass-book with a form of application for withdrawal of the net amount at his credit. The amount of interest due on his account up to the end of the calendar month preceding the date of presentation, will be entered in the Pass-book and a final balance struck. The amount will then be paid to the depositor, and his receipt taken on the Warrant of Payment. The Pass-book will be retained in the Post Office. If the application for closing an account be presented at a Sub-Office, the same procedure will be followed as in the case of an ordinary withdrawal, except that the Pass-book will be retained.

34. If an account be closed under the orders of the Comptroller, Post Office, notice in writing will be sent to the depositor, requiring him to present his Pass-book and receive payment of his balance at his credit as soon as convenient. After the date of such notice, no deposit will be accepted on the account so closed, and no interest will be allowed upon the balance after the end of the calendar month preceding such date.

#### RE-OPENING AN ACCOUNT.

35. A depositor who has once closed an account cannot open another account until after the expiration of three months from the date of closure, without the permission of the Comptroller, Post Office: and a depositor whose account has been closed by order cannot open a fresh account in any case without the permission of the Comptroller, Post Office.

#### DEAD ACCOUNTS.

36. Accounts in respect of which no transactions have taken place for the periods specified below will be treated as "dead" and no subsequent deposit or withdrawal will be allowed in the case of such accounts without the previous orders of the Comptroller, Post Office.



When the balance of the account is	And when no sum has been deposited or withdrawn and no interest added for
Under Rs. 10	3 complete years.
„ „ 100	6 „ „
Over „ 100	12 „ „

NOTE.—By “transaction” in this rule is meant not only a deposit or withdrawal but also the entry of interest which has accrued on an account, which entry is made annually on presentation of the Pass-book for the purpose.

*Procedure to be followed in cases of succession and guardianship.*

37. If a depositor should die, leaving in a Post Office Savings Bank a sum of money not exceeding one thousand rupees, and if probate of his will or letters of administration of his estate, or a certificate granted under Act No. XXVII of 1860 be not produced to the Postmaster-General within three months of the death of the said depositor, the Postmaster-General may pay the said sum of money to any person appearing to him to be entitled to receive it or to administer the estate of the deceased.

38. Balances in excess of Rs. 1,000 may be paid on production of probate, letters of administration or a certificate under Act XXVII of 1860, unless otherwise ordered by the Director General of the Post Office, who has discretionary power to dispense with such evidence in cases where he is of opinion that to require it would cause hardship, and that to dispense with it would involve no appreciable risk.

39. If any depositor become insane or otherwise incapable of managing his affairs, and if such insanity or incapacity be proved to the satisfaction of the Postmaster-General, then the Postmaster-General may, from time to time, make payment out of the deposits to any proper person.

40. When any person other than the father, or if the father is dead, the mother, claims to withdraw money from an account opened on behalf of a minor as being the guardian of such minor, the Postmaster-General may authorize the applicant to withdraw money from the account for the minor's use in accordance with the following rules :—

- (a). Where the applicant claims as guardian duly appointed by will or deed, on production of the documents supporting the claim.
- (b). Where the amount of the account does not exceed Rs. 250 and the applicant does not claim to have been appointed by will or deed, upon his giving evidence to the satisfaction of the Postmaster-General that he (the applicant) is the guardian of the minor.
- (c). Where the amount of the account exceeds Rs. 250 and the applicant does not claim to have been appointed guardian by will or deed, upon the applicant producing a certificate of administration granted under Act XL of 1858 or Act XX of 1864.
- (d). In any case of doubt the applicant (not being the father or mother of the minor) may be required to produce a certificate of administration under Act XL of 1858 or Act XX of 1864 before payment is made to him.

NOTE.—An authority given by the Postmaster-General under (b) will not hold good for a subsequent withdrawal if the balance of the account then exceeds Rs. 250.

**PURCHASE, SALE, AND CUSTODY OF GOVERNMENT SECURITIES.**

*Purchase of Government Securities.*

41. Any *bonâ fide* depositor, whose account has been in existence for not less than three months, may invest the amount of his balance or a portion of it in Government Securities through the Post Office. Any such depositor may also purchase, through the Post Office, Government Securities not exceeding in nominal value Rs. 1,000 in one year and Rs. 3,000 in all, by tendering in cash the amount necessary to complete the purchase. A written application should be presented, together with his Pass-book, by a depositor desiring to make an investment under this rule. The application will then be forwarded to the Comptroller, Post Office, who will take the necessary steps for making the purchase through the Comptroller-General.

- (a). The paper purchased will be of the 4 per cent. loans, unless 4½ per cent. paper is specially applied for.
- (b). The investor may also specially apply that the paper remain in the custody of the Comptroller-General. In this case the Comptroller-General will, if necessary, transfer the paper to the 4 per cent. loan of 1865. The investor may at any time apply through the local Post Office for the delivery to him of paper thus held by the Comptroller-General. If application is not made under this clause, the paper purchased by the Comptroller-General will be encased for payment of interest at the local treasury, and forwarded to the Post Office for delivery to the investor.

## SALE OF GOVERNMENT SECURITIES.

42. Any depositor may apply for the sale through the Post Office of Government Securities which have been purchased for him through the Post Office, whether held by himself or held for him by the Comptroller-General. If the securities are presented with the application, they must be endorsed in favor of the Comptroller-General.

## SAFE CUSTODY OF GOVERNMENT SECURITIES.

43. A depositor may tender at a Post Office Savings Bank, for safe custody by the Comptroller-General, Government Securities which have been purchased for him through the Post Office. The amount so tendered must not exceed in nominal value Rs. 1,000 in any year, or Rs. 3,000 in all. The Securities so tendered must be endorsed to the Comptroller-General.

## INTEREST ON GOVERNMENT SECURITIES.

44. So long as the Government Securities remain in the custody of the Comptroller-General, interest, when due, will be drawn and advised to the local Post Office Savings Bank through the Comptroller, Post Office, for credit to the depositor's account.

## FEES.

45. The following fees will be charged:—

*On purchase* : 4 annas per cent.

*On realization and remittance of interest* : 4 annas per cent. on the amount of the interest.

*On delivery out of custody* : 4 annas per cent. unless the application for delivery is made within a year of the purchase.

*On sales* : 4 annas per cent. and any actual outlay upon brokerage.

## POWER OF GOVERNMENT TO ALTER RULES.

46. The Governor-General in Council reserves the right to alter or add to these rules at any time.

(*Government of India. Resolution No. 1729, dated 9th April 1888, published in the Supplement to the Gazette of India, dated 14th idem, page 695.*)

(c). **RESOLUTION.**—The Comptroller-General submits for orders a proposal originated by the Government of Bombay—

(i). To permit contractors to make security deposits in the Savings Banks; and

(ii). To grant interest on the actual amount of such deposits without reference to the limit laid down by Rules IV and VII of the Savings Banks Rules.

2. The Comptroller-General objects to the principle of this proposal, on the ground that such deposits do not come within Rule II or Rule XII of the Rules, and that they should be made in the form of deposits of Government paper.

3. The admission of these deposits is no doubt foreign to the general object of the establishment of Savings Banks, and, as a rule, it is proper and more convenient that they should be made in Government paper.

4. But the practice of allowing Contractors' deposits in certain cases to be placed in Savings Banks has existed for a long time, and by the proceedings of August 1872 the rule, by which such deposits were permitted, was extended to "all Government Savings Banks in India and to all moneys deposited as security for the performance of contract or of public duties." The plan has proved to be of great practical advantage to petty contractors, and it is extensively worked in some places.

5. The Governor-General in Council will not therefore change the practice in respect to the admission of such deposits in Savings Banks: but as the principle of the concession applies only to deposits of small amounts, His Excellency in Council considers it inexpedient to permit any relaxation of the ordinary rules as regards the yearly amount of deposit or the maximum monthly interest allowable.—(*Government of India No. 771, dated 23rd May 1881.*)

(d). See NOTE (e), 12, 20, 21, 22, 31 to Act I of 1873.

**ACT No. VIII of 1873***(Passed on the 11th February 1873).*

**An Act to regulate Irrigation, Navigation, and Drainage in Northern India.**

Whereas, throughout the territories to which this Act extends, the Government is entitled to use and control for public purposes the water of all rivers and streams flowing in natural channels, and of all lakes and other natural collections of still water; and whereas it is expedient to amend the law relating to Irrigation, Navigation, and Drainage in the said territories; It is hereby enacted as follows:—

**PART I.****PRELIMINARY.**

**Short title.** This Act may be called "The Northern India Canal and Drainage Act, 1873":

**Local extent** It extends to the territories for the time being respectively under the government of the Lieutenant-Governors of the North-Western Provinces and the Punjab, and under the administration of the Chief Commissioners of Oudh and the Central Provinces; and applies to all lands, whether permanently settled, temporarily settled, or free from revenue.

**2.** *Repealed by Act XII of 1873.*

**3.** In this Act—unless there be something repugnant in the subject or context—

**"Canal"** (1) "Canal" includes—

(a) all canals, channels, and reservoirs constructed, maintained, or controlled by Government for the supply or storage of water;

(b) all works, embankments, structures, supply and escape-channels connected with such canals, channels or reservoirs;

(c) all water-courses as defined in the second clause of this section;

(d) any part of a river, stream, lake, or natural collection of water, or natural drainage-channel, to which the Local Government has applied the provisions of Part II of this Act;

**"Water-course."** (2) "Water-course" means any channel which is supplied with water from a canal, but which is not maintained at the cost of Government, and all subsidiary works belonging to any such channel;

**"Drainage-work"** (3) "Drainage-work" includes escape-channels from a canal, dams, weirs, embankments, sluices, groins, and other works for the protection of lands from flood or from erosion, formed or maintained by the Government under the provisions of Part VII of this Act; but does not include works for the removal of sewage from towns;

“Vessel.” (4) “Vessel” includes boats, rafts, timber, and other floating bodies ;

“Commissioner.” (5) “Commissioner” means a Commissioner of a Division, and includes any officer appointed under this Act to exercise all or any of the powers of a Commissioner ;

“Collector.” (6) “Collector” means the Head Revenue Officer of a District, and includes a Deputy Commissioner or other officer appointed under this Act to exercise all or any of the powers of a Collector ;

“Canal Officer.” (7) “Canal Officer” means an officer appointed under this Act to exercise control or jurisdiction over a canal or any part thereof ;

“Superintending Canal Officer” means an officer exercising general control over a canal or portion of a canal ;

“Divisional Canal Officer” means an officer exercising control over a division of a canal ;

“Sub-divisional Canal Officer” means an officer exercising control over a sub-division of a canal ;

“District.” (8) “District” means a district as fixed for revenue purposes.

4. The Local Government may from time to time declare, by notification in the official Gazette, the officers by whom, and the local limits within which, all or any of the powers or duties hereinafter conferred or imposed shall be exercised or performed.

All officers mentioned in section three, clause (7), shall be respectively subject to the orders of such officers as the Local Government from time to time directs.

NOTE.—Under the powers conveyed in Section 4, Act VIII of 1873, His Honor the Lieutenant-Governor is pleased to declare that the Superintending Engineer of the Circle within which the Muzaffargarh Series of Inundation Canals may for the time being be situated shall be the Superintending Canal Officer of the Muzaffargarh Canals, the Executive Engineer of the Muzaffargarh Canals Division shall be the Divisional Canal Officer, and the Deputy Collector shall be the Sub-divisional Canal Officer, as defined in Act VIII of 1873, Section 3, item (7). Further that all establishment employed on these Canals shall be under the control of the Divisional Canal Officer, subject to his departmental superiors and to such rules as may from time to time be issued by the Local Government in the Irrigation Department.—(No. 546, I, dated 5th February 1886, Punjab Gazette of 11th idem, Part I, page 50).

## PART II.

### OF THE APPLICATION OF WATER FOR PUBLIC PURPOSES.

5. Whenever it appears expedient to the Local Government that the water of any river or stream flowing in a natural channel, or of any lake or other natural collection of still water, should be applied or used by the Government for the purpose of any existing or projected canal or drainage-work,

Notification to issue when water-supply is to be applied for public purposes.

the Local Government may, by notification in the official Gazette, declare that the said water will be so applied or used after a day to be named in the said notification, not being earlier than three months from the date thereof.

NOTE.—The water of the river Sutlej will be used by Government for the Sirhind Canal from 13th August 1880.—(*Punjab Government Notification No. 433, dated 10th May 1880, Punjab Gazette of 13th idem*).

The water of the Ravi for the Sidhnai Canal from the 1st July 1886.—(*No. 23, dated 23rd March 1886, Punjab Gazette of 25th idem Part I, Page 142*).

The water of the River Swat for the Swat River Canal —(*No. 29 of same date*).

The water of the River Chenab for the Chenab Canal. —(*No. 30 of same date*).

6. At any time after the day so named, any Canal Officer, acting under the orders of the Local Government in this behalf, may enter on any land and remove any obstructions, and may close any channels, and do any other thing necessary for such application or use of the said water.

7. As soon as is practicable after the issue of such notification, the Collector shall cause public notice to be given at convenient places, stating that the Government intends to apply or use the said water as aforesaid, and that claims for compensation in respect of the matters mentioned in section eight may be made before him.

8. No compensation shall be awarded for any damage caused by—

- (a) stoppage or diminution of percolation or floods ;
- (b) deterioration of climate or soil ;
- (c) stoppage of navigation, or of the means of drifting timber or watering cattle ;
- (d) displacement of labour.

But compensation may be awarded in respect of any of the following matters :—

(e) Stoppage or diminution of supply of water through any natural channel to any defined artificial channel, whether above or under ground, in use at the date of the said notification :

(f) Stoppage or diminution of supply of water to any work erected for purposes of profit on any channel, whether natural or artificial, in use at the date of the said notification :

(g) Stoppage or diminution of supply of water through any natural channel which has been used for purposes of irrigation within the five years next before the date of the said notification :

(h) Damage done in respect of any right to a water-course or the use of any water to which any person is entitled under the Indian Limitation Act, 1871, Part IV :

(i) Any other substantial damage, not falling under any of the above clauses (a), (b), (c), or (d), and caused by the exercise of the powers conferred by this Act, which is capable of being ascertained and estimated at the time of awarding such compensation.

In determining the amount of such compensation, regard shall be had to the diminution in the market-value, at the time of awarding compensation, of the property in respect of which compensation is claimed ; and where such market-value is not ascertainable, the amount shall be reckoned at twelve times the amount of the diminution of the annual net profits of such property, caused by the exercise of the powers conferred by this Act.

No right to any such supply of water as is referred to in clauses (e), (f), or (g) of this section, in respect of a work or channel not in use at the date of the notification, shall be acquired as against the Government, except by grant, or under the Indian Limitation Act, 1871, Part IV.

And no right to any of the advantages referred to in clauses (a), (b), and (c) of this section shall be acquired, as against the Government, under the same Part.

9. No claim for compensation for any such stoppage, diminution, or damage shall be made after the expiration of one year from such stoppage, diminution, or damage, unless the Collector is satisfied that the claimant had sufficient cause for not making the claim within such period.

10. The Collector shall proceed to enquire into any such claim, and to determine the amount of compensation, if any, which should be given to the claimant ; and sections nine to twelve (inclusive), fourteen and fifteen, eighteen to twenty-three (inclusive), twenty-six to forty (inclusive), fifty-one, fifty-seven, fifty-eight, and fifty-nine of the Land Acquisition Act, 1870, shall apply to such enquiries :

Provided that, instead of the last clauses of the said section twenty six, the following shall be read :—“ The provisions of this section and of section eight of the Northern India Canal and Drainage Act, 1873, shall be read to every assessor in a language which he understands, before he gives his opinion as to the amount of compensation to be awarded.”

11. Every tenant holding under an unexpired lease, or having a right of occupancy, who is in occupation of any land at the time when any stoppage or diminution of water-supply, in respect of which compensation is allowed under section eight, takes place, may claim an abatement of rent previously payable by him for the said land, on the ground that the interruption reduces the value of the holding.

12. If a water-supply increasing the value of such holding is afterwards restored to the said land, the rent of the tenant may be enhanced, in respect of the increased value of such land due to the restored water-supply, to an amount not exceeding that at which it stood immediately before the abatement.

Such enhancement shall be on account only of the restored water-supply, and shall not effect the liability of the tenant to enhancement of rent on any other grounds.

13. All sums of money payable for compensation under this Part shall become due three months after the claim for such compensation is made in respect of the stoppage, diminution or damage complained of,

and simple interest at the rate of six per cent. per annum shall be allowed on any such sum remaining unpaid after the said three months, except where the non-payment of such sum is caused by the wilful neglect or refusal of the claimant to receive the same.

### PART III.

#### OF THE CONSTRUCTION AND MAINTENANCE OF WORKS.

**14.** Any Canal Officer or other person acting under the general or special order of a Canal Officer,

Power to enter and survey &c.

may enter upon any lands adjacent to any canal, or through which any canal is proposed to be made, and undertake surveys or levels thereon ;

and dig and bore into the sub-soil ;

and make and set up suitable land-marks, level-marks, and water-gauges ;

and do all other acts necessary for the proper prosecution of any enquiry relating to any existing or projected canal under the charge of the said Canal Officer :

and, where otherwise such enquiry cannot be completed, such officer or other person may cut down and clear away any part of any standing crop, fence or jungle ;

Power to clear land.

and may also enter upon any land, building or water-course on account of which any water-rate is chargeable, for the purpose of inspecting or regulating the use of the water supplied, or of measuring the lands irrigated thereby or chargeable with a water-rate, and of doing all things necessary for the proper regulation and management of such canal :

Power to inspect and regulate water-supply.

Provided that, if such Canal Officer or person proposes to enter into any building or enclosed court or garden attached to a dwelling-house not supplied with water flowing from any canal, he shall previously give the occupier of such building, court, or garden at least seven days' notice in writing of his intention to do so.

Notice of intended entry into houses.

In every case of entry under this section, the Canal Officer shall, at the time of such entry, tender compensation for any damage which may be occasioned by any proceeding under this section ; and in case of dispute as to the sufficiency of the amount so tendered, he shall forthwith refer the same for decision by the Collector, and such decision shall be final.

Compensation for damage caused by entry.

**15.** In case of any accident happening or being apprehended to a canal, any Divisional Canal Officer or any person acting under his general or special orders in this behalf may enter upon any lands adjacent to such canal, and may execute all works which may be necessary for the purpose of repairing or preventing such accident.

Power to enter for repairs and to prevent accidents.

In every such case, such Canal Officer or person shall tender compensation to the proprietors or occupiers of the said lands for all damage done to the same. If such tender is not accepted, the Canal Officer shall refer the matter to the Collector, who shall proceed to award compensation for the damage as though the Local Government had directed the occupation of the lands under section forty-three of the Land Acquisition Act, 1870.

**16.** Any persons desiring to use the water of any canal, may apply in writing to the Divisional or Sub-divisional Canal Officer of the division or sub-division of the canal from which the water-course is to be supplied, requesting such officer to construct or improve a water-course at the cost of the applicants.

The application shall state the works to be undertaken, their approximate estimated cost, or the amount which the applicants are willing to pay for the same, or whether they engage to pay the actual cost as settled by the Divisional Canal Officer, and how the payment is to be made.

When the assent of the Superintending Canal Officer is given to such application, all the applicants shall, after the application has been duly attested before the Collector, be jointly and severally liable for the cost of such works to the extent mentioned therein.

Any amount becoming due under the terms of such application, and not paid to the Divisional Canal Officer, or the person authorized by him to receive the same, on or before the date on which it becomes due, shall, on the demand of such officer, be recoverable by the Collector, as if it were an arrear of land-revenue.

**17.** There shall be provided, at the cost of Government, suitable means of crossing canals constructed or maintained at the cost of Government, at such places as the Local Government thinks necessary for the reasonable convenience of the inhabitants of the adjacent lands.

On receiving a statement in writing, signed by not less than five of the owners of such lands, to the effect that suitable crossings have not been provided on any canal, the Collector shall cause enquiry to be made into the circumstances of the case, and if he thinks that the statement is established, he shall report his opinion thereon for the consideration of the Local Government, and the Local Government shall cause such measures in reference thereto to be taken as it thinks proper.

**18.** The Divisional Canal Officer may issue an order to the persons using any water-course to construct suitable bridges, culverts, or other works for the passage of the water of such water-course across any public road, canal, or drainage channel in use before the said water-course was made, or to repair any such works.

Such order shall specify a reasonable period within which such construction or repairs shall be completed ;



and if, after the receipt of such order, the persons to whom it is addressed do not, within the said period, construct or repair such works to the satisfaction of the said Canal Officer, he may, with the previous approval of the Superintending Canal Officer, himself construct or repair the same ;

and if the said persons do not, when so required, pay the cost of such construction or repairs as declared by the Divisional Canal Officer, the amount shall, on the demand of the Divisional Canal Officer, be recoverable from them by the Collector as if it were an arrear of land-revenue.

**19.** If any person, jointly responsible with others for the construction or maintenance of a water-course, or jointly making use of a water-course with others, neglects or refuses to pay his share of the cost of such construction or maintenance, or to execute his share of any work necessary for such construction or maintenance, the Divisional or Sub-divisional Canal Officer, on receiving an application in writing from any person injured by such neglect or refusal, shall serve notice on all the parties concerned that, on the expiration of a fortnight from the service, he will investigate the case ; and shall, on the expiration of that period, investigate the case accordingly, and make such order thereon as to him seems fit.

Such order shall be appealable to the Commissioner, whose order thereon shall be final.

Any sum directed by such order to be paid within a specified period, may, if not paid within such period, and if the order remains in force, be recovered by the Collector, from the person directed to pay the same, as if it were an arrear of land-revenue.

**20.** Whenever application is made to a Divisional Canal Officer for a supply of water from a canal, and it appears to him expedient that such supply should be given, and that it should be conveyed through some existing water-course, he shall give notice to the persons responsible for the maintenance of such water-course to show cause, on a day not less than fourteen days from the date of such notice, why the said supply should not be so conveyed ; and, after making enquiry on such day, the Divisional Canal Officer shall determine whether and on what conditions the said supply shall be conveyed through such water-course.

When such officer determines that a supply of canal-water may be conveyed through any water-course as aforesaid, his decision shall, when confirmed or modified by the Superintending Canal Officer, be binding on the applicant, and also on the persons responsible for the maintenance of the said water-course.

Such applicant shall not be entitled to use such water-course until he has paid the expense of any alteration of such water-course necessary in order to his being supplied through it, and also such share of the first cost of such water-course as the Divisional or Superintending Canal Officer may determine.

Such applicant shall also be liable for his share of the cost of maintenance of such water-course so long as he uses it.

Application for construction of new water-course.

**21.** Any person desiring the construction of a new water-course may apply in writing to the Divisional Canal Officer, stating—

(1) that he has endeavoured unsuccessfully to acquire, from the owners of the land through which he desires such water-course to pass, a right to occupy so much of the land as will be needed for such water-course ;

(2) that he desires the said Canal Officer, in his behalf and at his cost, to do all things necessary for acquiring such right ;

(3) that he is able to defray all costs involved in acquiring such right and constructing such water-course.

**22.** If the Divisional Canal Officer considers—

Procedure of Canal Officer thereupon.

(1) that the construction of such water-course is expedient, and

(2) that the statements in the application are true,

he shall call upon the applicant to make such deposit as the Divisional Canal Officer considers necessary to defray the cost of the preliminary proceedings, and the amount of any compensation which he considers likely to become due under section twenty eight ;

and, upon such deposit being made, he shall cause inquiry to be made into the most suitable alignment for the said water-course, and shall mark out the land which, in his opinion, it will be necessary to occupy for the construction thereof, and shall forthwith publish a notice in every village through which the water-course is proposed to be taken, that so much of such land as belongs to such village has been so marked out, and shall send a copy of such notice to the Collector of every district in which any part of such land is situate.

**23.** Any person desiring that an existing water-course should be transferred from its present owner to himself, may apply in writing to the Divisional Canal Officer, stating—

Application for transfer of existing water-course.

(1) that he has endeavoured unsuccessfully to procure such transfer from the owner of such water-course ;

(2) that he desires the said Canal Officer, in his behalf and at his cost, to do all things necessary for procuring such transfer ;

(3) that he is able to defray the cost of such transfer.

Procedure thereupon.

If the Divisional Canal Officer considers—

(a) that the said transfer is necessary for the better management of the irrigation from such water-course, and

(b) that the statements in the application are true,

he shall call upon the applicant to make such deposit as the Divisional Canal Officer considers necessary to defray the cost of the preliminary proceedings, and the amount of any compensation that may become due under the provisions of section twenty-eight in respect of such transfer :

and, upon such deposit being made, he shall publish a notice of the application in every village, and shall send a copy of the notice to the Collector of every district, through which such water-course passes.

**24.** Within thirty days from the publication of a notice under section twenty-two or section twenty-three, as the case may be, any person interested in the land or water-course to which the notice refers may apply to the Collector by petition, stating his objection to the construction or transfer for which application has been made.

The Collector may either reject the petition or may proceed to inquire into the validity of the objection, giving previous notice to the Divisional Canal Officer of the place and time at which such inquiry will be held.

The Collector shall record in writing all orders passed by him under this section and the grounds thereof.

**25.** If no such objection is made, or (where such objection is made) if the Collector over-rules it, he shall give notice to the Divisional Canal Officer to that effect, and shall proceed forthwith to place the said applicant in occupation of the land marked out or of the water-course to be transferred, as the case may be.

**26.** If the Collector considers any objection made as aforesaid to be valid, he shall inform the Divisional Canal Officer accordingly; and, if such officer sees fit, he may, in the case of an application under section twenty-one, alter the boundaries of the land so marked out, and may give fresh notice under section twenty-two; and the procedure hereinbefore provided shall be applicable to such notice and the Collector shall thereupon proceed as before provided.

**27.** If the Canal Officer disagrees with the Collector, the matter shall be referred for decision to the Commissioner.

Such decision shall be final, and the Collector if he is so directed by such decision, shall, subject to the provisions of section twenty-eight, cause the said applicant to be placed in occupation of the land so marked out or of the water-course to be transferred, as the case may be.

**28.** No such applicant shall be placed in occupation of such land or water-course until he has paid to the person named by the Collector such amount as the Collector determines to be due as compensation for the land or water-course so occupied or transferred, and for any damage caused by the marking out or occupation of such land, together with all expenses incidental to such occupation or transfer.

In determining the compensation to be made under this section, the Collector shall proceed under the provisions of the Land Acquisition Act, 1870; but he may, if the person to be compensated so desire, award such compensation in the form of a rent-charge payable in respect of the land or water-course occupied or transferred.

If such compensation and expenses are not paid when demanded by the person entitled to receive the same, the amount may be recovered by the Collector as if it were an arrear of land-revenue, and shall, when recovered, be paid by him to the person entitled to receive the same.

**29.** When any such applicant is placed in occupation of land or of a water-course as aforesaid, the following rules and conditions shall be binding on him and his representative in interest :—

Conditions binding on applicant placed in occupation.

*First.*—All works necessary for the passage across such water-course, of water-courses existing previous to its construction and of the drainage intercepted by it, and for affording proper communications across it for the convenience of the neighbouring lands, shall be constructed by the applicant, and be maintained by him or his representative in interest to the satisfaction of the Divisional Canal Officer.

*Second.*—Land occupied for a water-course under the provisions of section twenty-two shall be used only for the purpose of such water-course.

*Third.*—The proposed water-course shall be completed to the satisfaction of the Divisional Canal Officer within one year after the applicant is placed in occupation of the land.

In cases in which land is occupied or a water-course is transferred on the terms of a rent-charge—

*Fourth.*—The applicant or his representative in interest shall, so long as he occupies such land or water-course, pay rent for the same at such rate and on such days as are determined by the Collector when the applicant is placed in occupation.

*Fifth.*—If the right to occupy the land cease owing to a breach of any of these rules, the liability to pay the said rent shall continue until the applicant or his representative in interest has restored the land to its original condition, or until he has paid, by way of compensation for any injury done to the said land, such amount and to such persons as the Collector determines.

*Sixth.*—The Collector may, on the application of the person entitled to receive such rent or compensation, determine the amount of rent due or assess the amount of such compensation; and if any such rent or compensation be not paid by the applicant or his representative in interest, the Collector may recover the amount, with interest thereon at the rate of six per cent. per annum from the date on which it became due, as if it were an arrear of land-revenue, and shall pay the same, when recovered, to the person to whom it is due.

If any of the rules and conditions prescribed by this section are not complied with,

or if any water-course constructed or transferred under this Act is disused for three years continuously,

the right of the applicant, or of his representative in interest, to occupy such land or water-course shall cease absolutely.

**30.** The procedure hereinbefore provided for the occupation of land for the construction of a water-course shall be applicable to the occupation of land for any extension or alteration of a water-course, and for the deposit of soil from water-course clearances.

Procedure applicable to occupation for extensions and alterations.

## PART IV.

## OF THE SUPPLY OF WATER.

**31.** In the absence of a written contract, or so far as any such contract does not extend, every supply of canal-water shall be deemed to be given at the rates and subject to the conditions prescribed by the rules to be made by the Local Government in respect thereof.

Conditions as to —

**32.** Such contracts and rules must be consistent with the following conditions :—

(a). The Divisional Canal Officer may not stop the supply of water to any water-course, or to any person, except in the following cases :—

(1) whenever and so long as it is necessary to stop such supply for the purpose of executing any work ordered by competent authority, and with the previous sanction of the Local Government ;

(2) whenever and so long as any water-course is not maintained in such proper customary repair as to prevent the wasteful escape of water therefrom ;

(3) within periods fixed from time to time by the Divisional Canal Officer :

(b). No claim shall be made against the Government for compensation in respect of loss caused by the failure or stoppage of the water in a canal, by reason of any cause beyond the control of the Government, or of any repairs, alterations, or additions to the canal, or of any measures taken for regulating the proper flow of water therein, or for maintaining the established course of irrigation which the Divisional Canal Officer considers necessary ; but the person suffering such loss may claim such remission of the ordinary charges payable for the use of the water as is authorized by the Local Government :

(c). If the supply of water to any land irrigated from a canal be interrupted otherwise than in the manner described in the last preceding clauses, the occupier or owner of such land may present a petition for compensation to the Collector for any loss arising from such interruption, and the Collector may award to the petitioner reasonable compensation for such loss :

(d). When the water of a canal is supplied for the irrigation of a single crop, the permission to use such water shall be held to continue only until that crop comes to maturity, and to apply only to that crop ; but if it be supplied for irrigating two or more crops to be raised on the same land within the year, such permission shall be held to continue for one year from the commencement of the irrigation, and to apply to such crops only as are matured within that year :

(e). Unless with the permission of the Superintending Canal Officer, no person entitled to use the water of any canal, or any work, building or land appertaining to any canal, shall sell or sub-let or otherwise transfer his right to such use : Provided that the former part of this clause shall not apply to the use by a cultivating tenant of water supplied by the owner of a water-course for the irrigation of the land held by such tenant :

But all contracts made between Government and the owner or occupier transfer, with land, of of any immovable property, as to the supply of contracts for water ; canal-water to such property, shall be transferable therewith, and shall be presumed to have been so transferred whenever a transfer of such property takes place :

(f). No right to the use of the water of a canal shall be, or be deemed no right acquired by user. to have been, acquired under the Indian Limitation Act, 1871, Part IV, nor shall Government be bound to supply any person with water, except in accordance with the terms of a contract in writing.

## PART V.

### OF WATER-RATES.

33. If water supplied through a water-course be used in an unauthorized manner, and if the person by whose act or neglect such use has occurred cannot be identified, Liability when person using unauthorizedly cannot be identified.

the person on whose land such water has flowed if such land has derived benefit therefrom,

or if such person cannot be identified, or if such land has not derived benefit therefrom, all the persons chargeable in respect of the water supplied through such water-course,

shall be liable, or jointly liable, as the case may be, to the charges made for such use.

34. If water supplied through a water-course be suffered to run to waste, and if, after enquiry by the Divisional Canal Officer, the person through whose act or neglect such water was suffered to run to waste cannot be discovered, all the persons chargeable in respect of the water supplied through such water-course shall be jointly liable for the charges made in respect of the water so wasted. Liability when water runs to waste.

35. All charges for the unauthorized use or for waste of water may be recovered in addition to any penalties incurred on account of such use or waste. Charges recoverable in addition to penalties.

All questions under section thirty-three or section thirty-four shall be decided by the Divisional Canal Officer, subject to an appeal to the head revenue officer of the district, or such other appeal as may be provided under section seventy-five. Decision of questions under sections 33 and 34.

36. The rates to be charged for canal-water supplied for purposes of irrigation to the occupiers of land shall be determined by the rules to be made by the Local Government, and such occupiers as accept the water shall pay for it accordingly. Charge on occupier for water how determined.

A rate so charged shall be called the 'occupier's rate.' 'Occupier's rate.'

37. In addition to the occupier's rate, a rate to be called the 'owner's rate' may be imposed, according to rules to be made by the Local Government, on the owners of canal-irrigated lands, in respect of the benefit which they derive from such irrigation. 'Owner's rate.'

**38.** The owner's rate shall not exceed the sum which, under the rules for the time being in force for the assessment of land-revenue, might be assessed on such land, on account of the increase in the annual value or produce thereof caused by the canal-irrigation. And for the purpose of this section only, land which is permanently settled or held free of revenue, shall be considered as though it were temporarily settled and liable to payment of revenue.

**39.** No owner's rate shall be chargeable either on the owner or occupier of land temporarily assessed to pay land revenue at irrigation-rates, during the currency of such assessment.

**NOTES.—(a).—**The Lieutenant-Governor has, with the sanction of the Governor-General in Council, laid down the following rule for the assessment, until further orders, of the "owner's rate" under Sections 37, 38 and 39 of this Act, in certain lands irrigated from the Agra Canal, in the districts of Delhi and Gurgaon :—

#### RULE.

In all estates into which canal irrigation has been introduced for the first time since last Settlement, and shall hereafter be introduced, the owner's rate shall, until further orders, be assessed at one third of the occupier's rate leviable on occupiers of canal irrigated lands.

*Proviso 1st.* The owner's rate shall nowhere exceed the sum which, under the rules for the time being in force for the assessment of land revenue, might be assessed on such land on account of the increase in the annual value or produce thereof, caused by the canal.

*Proviso 2nd.* All lands irrigated from wells or other sources at the time of the last Settlement and then assessed at irrigated rates, shall be excluded from the operation of owner's rate.

2. This rate will be first collected for the rabi fasl of 1874-75, A. D.—(*Notification No. 4059 dated 17th September 1875—Punjab Gazette of 23rd idem*).

(b).—The Lieutenant-Governor has, with the sanction of the Governor-General in Council, laid down the following rules for the assessment of the "owner's rate" under Sections 37, 38 and 39 of this Act in lands irrigated from the Agra Canal which are not assessed to Government revenue :—

#### RULES.

1. In all such lands the owner's rate shall, until further orders, be assessed in the same manner as in lands assessed to Government revenue.

2. In all such land, the owners of which are also grantees of the land revenue, the rate will be first collected for the kharif fasl of 1877 A. D.

3. In all cases when the owners are distinct from the grantees of the land revenue, the rate will be first collected for the kharif fasl of the present year 1875, A.D.—(*Notification No. 4060, dated 17th September 1875—Punjab Gazette of 23rd idem*).

(c). The Lieutenant-Governor has laid down the following rule for the assessment of the owner's rate under the above sections on all lands irrigated from the Western Jumna Canal, in the districts of Delhi, Rohtak, and the Panipat Tahsil of Karnal, and that part of the Karnal tahsil which formerly belonged to the Panipat district, and has been re-assessed in the Settlement of the Karnal district now in progress :—

#### RULE.

In all estates receiving irrigation from the Western Jumna Canal the owner's rate shall, until further orders, be assessed at one-half of the occupier's rate leviable on occupiers of canal-irrigated lands.

*Proviso 1st.*—The owner's rate shall nowhere exceed the sum which, under the rules for the time being in force for the assessment of land revenue, might be assessed on such land on account of the increase in the annual value of produce thereof, caused by the canal.

*Proviso 2nd.*—All lands irrigated from wells or other sources besides canals, and assessed at irrigated rates at the Settlement now in force, shall be excluded from the operation of owner's rate.

This rate will be first collected in the Panipat Tahsil from the autumn harvest of 1878-79, and in the rest of the tract under reference from the autumn harvest of 1879-80.—(*Notification No. 576½, dated 25th June 1880—Punjab Gazette of 1st July*).

(d).—*General rules for all new Jagir or Mafi grants and for old grants to which canal irrigation has not heretofore extended.*

1. In a case of (a) all new grants which may be made hereafter, or (b) of lapsing grants continued to heirs by review of former orders, or (c) of old grants to which canal irrigation has not heretofore extended, the grantees shall not get the owner's rate. This rule in respect to grants of class (c) shall be subject to the following proviso :—

*Proviso.*—If, owing to supersession of irrigation from wells or other private works, by irrigation from a Government canal, particular fields, forming part of a Jagir or Mafi grant and assessed with land-revenue at irrigation rates, shall at a Settlement subsequent to the grant be assessed at dry rates and made liable to a separate charge of the nature of owner's rate, then the grantee (if not also the proprietor or cultivator of the land) shall be entitled to compensation for the loss of the irrigated rate of land-revenue which he formerly received on such fields. The compensation may take the form of an assignment of the whole or part of the owner's rate on such fields, or of a lump sum cash payment, or of a separate additional assignment of land-revenue, as may seem most advisable in each case.

*General rules for all old (i. e. previously made) Jagir or Mafi grants to which Canal Irrigation has been heretofore extended.*

1. If the grant was irrigated from a Government Canal, either when the grant was first made or before the first regular Settlement, and the grantee has hitherto enjoyed, either in the way of assignment or remission, the owner's rate or a land-revenue assessed by the old procedure at canal-irrigated rates, he shall get the owner's rate in future.

2. If the grant was not irrigated by the canal, either when the grant was first made or before the first regular Settlement, the grantee shall not get owner's rate ; but this rule shall be subject to the following provisos :—

*Proviso I.*—If on the Bari Doab and Upper Sutlej Inundation Canals, the Government has heretofore surrendered to the grantee the charges equivalent to owner's rate, viz, the water-advantage rate on the Bari Doab Canal, and on the Upper Sutlej Inundation Canals in the Lahore district, and half the fluctuating canal-revenue on the Upper Sutlej Inundation Canals in the Montgomery district, the grantee shall enjoy the owner's rate for his life.

*Explanation.*—In the case of grants held by institutions, the surrender of the owner's rate will be continued only during the life of the present head of the institution if there is one, and if there is no such head, the term of Settlement will be substituted for the life of the holder in applying this proviso.

*Proviso II.*—If, owing to supersession of irrigation from wells or other private works, by irrigation from a Government canal, particular fields forming part of a Jagir or Mafi grant and assessed with land-revenue at irrigation rates shall at a Settlement subsequent to the grant be assessed at dry rates and made liable to a separate charge of the nature of owner's rate, then the grantee (if not also the proprietor or cultivator of the land) shall be entitled to compensation for the loss of the irrigated rate of the land-revenue which he formerly received on such fields. This compensation may take the form of an assignment of the whole or part of the owner's rate on such fields, or of a lump sum cash payment, or of a separate additional assignment of land-revenue, as may seem most advisable in each case.

*Proviso III.*—This rule will not apply to the case of such assignees, if any, who are expressly entitled to owner's rate under the terms of these grants.

*General Explanation I.*—For the purpose of the above rules the term "owner's rate" includes water-advantage revenue, and the half of the fluctuating Canal revenue on the Upper Sutlej Inundation canals in Montgomery, which represents the revenue demanded at irrigated rates under the former system of assessment ; and also the canal-advantage revenue rate assessable in the districts of Mooltan, Muzaffargarh, and Dera Ghazi Khan, on lands not assessed with land-revenue at canal-irrigated rates at the late Settlement, which may hereafter be supplied with canal water.

*General Explanation II.*—The term "grant" means each separate village or mafi plot, not a grant comprising several separate villages or several separate plots. — (See Financial Commissioner's Circular No. 6 S. of 1882).

(e). For further instructions applying to the owner's rate system, see Financial Commissioner's Circular No. 7 S, of 1882.

#### 40.—43. Repealed by Act XVI of 1887.

#### 44. Where a water-rate is charged on land held by several joint owners,

Water-rate by whom payable when charged on land held by several owners.

it shall be payable by the manager or other person who receives the rents or profits of such land, and may be deducted by him from such rents or profits



before division, or may be recovered by him from the persons liable to such rate in the manner customary in the recovery of other charges on such rents or profits.

*Recovery of Charges.*

**45.** Any sum lawfully due under this Part, and certified by the Divisional Canal Officer to be so due, which remains unpaid after the day on which it becomes due, shall be recoverable by the Collector from the person liable for the same as if it were an arrear of land-revenue.

Certified dues recoverable as land revenue.

**46.** The Divisional Canal Officer or the Collector may enter into an agreement with any person for the collection and payment to the Government by such person of any sum payable under this Act by a third party.

Power to contract for collection of canal-dues.

When such agreement has been made, such person may recover such sum by suit as though it were a debt due to him, or an arrear of rent due to him on account of the land, work, or building in respect of which such sum is payable, or for or in which the canal-water shall have been supplied or used.

If such person makes default in the payment of any sum collected by him under this section, such sum may be recovered from him by the Collector under section forty-five; and if such sum or any part of it be still due by the said third party, the sum or part so due may be recovered in like manner by the Collector from such third party.

**47.** The Collector may require the lambarदार or person under engagement to pay the land-revenue of any estate, to collect and pay any sum payable under this Act by a third party, in respect of any land or water in such estate.

Lambarदars may be required to collect canal dues.

Such sums shall be recoverable by the Collector as if they were arrears of land-revenue due in respect of the defaulter's share in such estate;

and for the purpose of collecting such sums from the subordinate zamindars, ryots or tenants, such lambarदार or person may exercise the powers, and shall be subject to the rules, laid down in the law for the time being in force in respect to the collection by him of the rents of land or of shares of land-revenue.

The Local Government shall provide

- (a) for remunerating persons collecting sums under this section; or
- (b) for indemnifying them against expenses properly incurred by them in such collection; or
- (c) for both such purposes.

Fines excluded from sections 45, 46, 47.

**48.** Nothing in sections forty-five, forty-six, or forty-seven applies to fines.

## PART VI.

### OF CANAL-NAVIGATION.

**49.** Any vessel entering or navigating any canal contrary to the rules made in that behalf by the Local Government, or so as to cause danger to the canal or the other vessels therein, may be removed or detained, or both re-

Detainer of vessels violating rules.

moved and detained, by the Divisional Canal Officer, or by any other person duly authorized in this behalf.

The owner of any vessel causing damage to a canal, or removed or detained under this section, shall be liable to pay to the Government such sum as the Divisional Canal Officer with the approval of the Superintending Canal Officer determines to be necessary to defray the expenses of repairing such damage, or of such removal or detention, as the case may be.

**50.** Any fine imposed under this Act upon the owner of any vessel, or the servant or agent of such owner or other person in charge of any vessel, for any offence in respect of the navigation of such vessel, may be recovered either in the manner prescribed by the Code of Criminal Procedure, or, if the Magistrate imposing the fine so directs, as though it were a charge due in respect of such vessel.

**51.** If any charge due under the provisions of this Part in respect of any vessel is not paid on demand to the person authorized to collect the same, the Divisional Canal Officer may seize and detain such vessel and the furniture thereof, until the charge so due, together with all expenses and additional charges arising from such seizure and detention, is paid in full.

**52.** If any charge due under the provisions of this Part in respect of any cargo or goods carried in a Government vessel on a canal, or stored on or in lands or warehouses occupied for the purposes of a canal, is not paid on demand to the person authorized to collect the same, the Divisional Canal Officer may seize such cargo or goods, and detain them until the charge so due, together with all expenses and additional charges arising from such seizure and detention, is paid in full.

**53.** Within a reasonable time after any seizure under section fifty-one or section fifty-two, the said Canal Officer shall give notice to the owner or person in charge of the property seized that it, or such portion of it as may be necessary, will, on a day to be named in the notice, but not sooner than fifteen days from the date of the notice, be sold in satisfaction of the claim on account of which such property was seized, unless the claim be discharged before the day so named.

And if such claim be not so discharged, the said Canal Officer may, on such day, sell the property seized or such part thereof as may be necessary to yield the amount due, together with the expenses of such seizure and sale:

Provided that no greater part of the furniture of any vessel or of any cargo or goods shall be so sold than shall, as nearly as may be, suffice to cover the amount due in respect of such vessel, cargo, or goods.

The residue of such furniture, cargo, or goods, and of the proceeds of the sale, shall be made over to the owner or person in charge of the property seized.

**54.** If any vessel be found abandoned in a canal, or any cargo or goods carried in a Government vessel on a canal, or stored on or in lands or warehouses occupied for the purposes of a canal, be left unclaimed for a period of two months, the Divisional Canal Officer may take possession of the same.

The officer so taking possession may publish a notice that if such vessel and its contents, or such cargo or goods, are not claimed previously to a day to be named in the notice, not sooner than thirty days from the date of such notice, he will sell the same; and, if such vessel, contents, cargo or goods be not so claimed, he may, at any time after the day named in the notice, proceed to sell the same.

The said vessel and its contents, and the said cargo or goods, if unsold, or, if a sale has taken place, the proceeds of the sale after paying all tolls, charges, and expenses incurred by the Divisional Canal Officer on account of the taking possession and sale, shall be made over to the owner of the same, when his ownership is established to the satisfaction of the Divisional Canal Officer.

If the Divisional Canal Officer is doubtful to whom such property or proceeds should be made over, he may direct the property to be sold as aforesaid, and the proceeds to be paid into the district treasury, there to be held until the right thereto be decided by a Court of competent jurisdiction.

## PART VII.

### OF DRAINAGE.

**55.** Whenever it appears to the Local Government that injury to any land or the public health or public convenience has arisen or may arise from the obstruction of any river, stream, or drainage-channel, such Government may, by notification published in the official Gazette, prohibit, within limits to be defined in such notification, the formation of any obstruction, or may, within such limits, order the removal or other modification of such obstruction.

Thereupon so much of the said river, stream, or drainage-channel as is comprised within such limits, shall be held to be a drainage-work as defined in section three.

**NOTES.**—(a). The Lieutenant-Governor has made this section applicable to certain streams and drainage lines in the Punjab, together with their affluents.—(*Notification No. 1259 I, dated 22nd March 1875*).

(b). Under the provisions of Section 55 of Act VIII of 1873, His Honor the Lieutenant-Governor is pleased to prohibit within the limits of the villages enumerated below, situated within the British territory, the formation of mull-dams, channels, or any other obstructions whatsoever in the bed of the river Ravi, except with the permission of the Executive Engineer, 1st Division, Bari Doab Canal, who is also hereby authorized to remove any such existing obstruction which he may consider injurious to any land, or to the public health or public convenience:—

#### List of Villages

Terahti,	} Zilla Gurdaspur, Tahsil Pathankot	Sidhori,	} Zilla Gurdaspur, Tahsil Pathankot.
Adial-in-kot,		Gatha,	
Jagial,		Madhopur,	
Rajpura,		Sheber,	
Baikalla,		Mirzapur,	
Harur,		Hajipur,	
Kamwal,		Chahun,	
Khalah,		Beheri,	

(*Notification No. 3692 I, dated 16th October 1882, Punjab Gazette of 19th idem*).

(c). Obstructions have also been prohibited under this section within the limits of the deep channel of certain specified nallas and drainages in which water from the Swat Canal and its Rajbahas escapes.—(*No. 1381 I, dated 25th March 1886, Punjab Gazette of 1st April, Part I, page 154*).

**56.** The Divisional Canal Officer, or other person authorized by the Local Government in that behalf, may, after such publication, issue an order to the person causing

or having control over any such obstruction to remove or modify the same within a time to be fixed in the order.

If, within the time so fixed, such person does not comply with the order, the said Canal Officer may himself remove or modify the obstruction ; and if the person to whom the order was issued does not, when called upon, pay the expenses involved in such removal or modification, such expenses shall be recoverable by the Collector from him or his representative in interest as an arrear of land-revenue.

**57.** Whenever it appears to the Local Government that any drainage

Preparation of schemes for works of improvement. works are necessary for the improvement of any lands, or for the proper cultivation or irrigation thereof, or that protection from floods or other accumulations of water, or from erosion by a river, is required for any lands, the Local Government may cause a scheme for such drainage-works to be drawn up and published, together with an estimate of its cost and a statement of the proportion of such cost which the Government proposes to defray, and a schedule of the lands which it is proposed to make chargeable in respect of the scheme.

**58.** The persons authorized by the Local Government to draw up such

Powers of persons employed on such schemes. scheme may exercise all or any of the powers conferred on Canal Officers by section fourteen.

**59.** An annual rate, in respect of such scheme, may be charged, accord-

Rate on lands benefited by works. ing to rules to be made by the Local Government, on the owners of all lands which shall, in the manner prescribed by such rules, be determined to be so chargeable.

Such rate shall be fixed as nearly as possible so as not to exceed either of the following limits :—

(1). Six per cent. per annum on the first cost of the said works, adding thereto the estimated yearly cost of the maintenance and supervision of the same, and deducting therefrom the estimated income, if any, derived from the works, excluding the said rate :

(2). In the case of agricultural land, the sum which, under the rules then in force for the assessment of land-revenue, might be assessed on such land on account of the increase of the annual value or produce thereof caused by the drainage-work.

Such rate may be varied from time to time, within such maximum, by the Local Government.

So far as any defect to be remedied is due to any canal, water-course, road, or other work or obstruction, constructed or caused by the Local Government or by any person, a proportionate share of the cost of the drainage-works required for the remedy of the said defect shall be borne by such Government or such person as the case may be.

**60.** Any such drainage-rate may be collected and recovered in manner

Recovery of rate.

provided by sections forty-five, forty-six and forty-seven, for the collection and recovery of water-rates.

Disposal of claims to compensation.

**61.** Whenever, in pursuance of a notification made under section fifty-five, any obstruction is removed or modified,

or whenever any drainage-work is carried out under section fifty-seven,

all claims for compensation on account of any loss consequent on the removal or modification of the said obstruction or the construction of such work may be made before the Collector, and he shall deal with the same in the manner provided in section ten.

**62.** No such claim shall be entertained after the expiration of one year from the occurrence of the loss complained of, unless the Collector is satisfied that the claimant had sufficient cause for not making the claim within such period.

Limitation of such claims

## PART VIII.

### OF OBTAINING LABOUR FOR CANALS AND DRAINAGE-WORKS.

**63.** For the purposes referred to in this Part, the word 'labourer' includes persons who exercise any handicraft specified in rules to be made in that behalf by the Local Government.

Definition of 'labourer.'

Power to prescribe number of labourers to be supplied by persons benefited by canal

**64.** In any district in which a canal or drainage-work is constructed, maintained, or projected by Government, the Local Government may, if it thinks fit, direct the Collector

(a) to ascertain the proprietors, sub-proprietors, or farmers, whose villages or estates are or will be, in the judgment of the Collector, benefited by such canal or drainage-work, and

(b) to set down in a list, having due regard to the circumstances of the district and of the several proprietors, sub-proprietors, or farmers, the number of labourers which shall be furnished by any of the said persons, jointly or severally, from any such village or estate, for employment on any such canal or drainage-work when required as hereinafter provided.

The Collector may, from time to time, add to or alter such list or any part thereof.

**65.** Whenever it appears to a Divisional Canal Officer duly authorized by the Local Government, that, unless some work is immediately executed, such serious damage will happen to any canal or drainage-work as to cause sudden and extensive public injury,

and that the labourers necessary for the proper execution thereof cannot be obtained in the ordinary manner within the time that can be allowed for the execution of such work so as to prevent such injury,

the said officer may require any person named in such list to furnish as many labourers (not exceeding the number which, according to the said list, he is liable to supply) as to the said officer seems necessary for the immediate execution of such work.

Every requisition so made shall be in writing, and shall state

(a) the nature and locality of the work to be done,

(b) the number of labourers to be supplied by the person upon whom the requisition is made, and

(c) the approximate time for which and the day on which the labourers will be required;

and a copy thereof shall be immediately sent to the Superintending Canal Officer for the information of the Local Government.

The Local Government shall fix, and may from time to time alter, the rates to be paid to any such labourers: provided that such rates shall exceed the highest rates for the time being paid in the neighbourhood for similar work. In the case of every such labourer, the payment shall continue for the whole period during which he is, in consequence of the provisions of this Part, prevented from following his ordinary occupation.

The Local Government may, with the previous sanction of the Governor-General in Council, direct that the provisions of this Part shall apply, either permanently or temporarily (as the case may be), to any district or part of a district for the purpose of effecting necessary annual silt-clearances, or to prevent the proper operation of a canal or drainage-work being stopped or so much interfered with as to stop the established course of irrigation or drainage.

**NOTE.**—The rate at which the labourers called out under this section on the Mooltan canals will be paid has been fixed at 6 annas a day.—(No. 3698 I, dated 3rd October 1881—*Punjab Gazette of 6th idem*).

- 66.** When any requisition has been made on any person named in the said list, every labourer ordinarily resident within the village or estate of such person shall be liable to supply, and to continue to supply, his labour, for the purposes aforesaid.
- Liability of labourers under requisition.

## PART IX.

### OF JURISDICTION.

- 67.** Except where herein otherwise provided, all claims against Government in respect of anything done under this Act may be tried by the Civil Courts; but no such Court shall in any case pass an order as to the supply of canal-water to any crop sown or growing at the time of such order.
- Jurisdiction under this Act of Civil Courts.

- 68.** When a difference arises between two or more persons in regard to their mutual rights or liabilities in respect of the use, construction, or maintenance of a water-course, any such person may apply in writing to the Divisional Canal Officer stating the matter in dispute. Such officer shall thereupon give notice to the other persons interested that, on a day to be named in such notice, he will proceed to inquire into the said matter. And, after such enquiry, he shall pass his order thereon, unless he transfers (as he is hereby empowered to do) the matter to the Collector, who shall thereupon enquire into and pass his order on the said matter.
- Settlement of differences as to mutual rights and liabilities of persons interested in water-course.

Such order shall be final as to the use or distribution of water for any crop sown or growing at the time when such order is made, and shall thereafter remain in force until set aside by the decree of a Civil Court.

- 69.** Any officer empowered under this Act to conduct any inquiry may exercise all such powers connected with the summoning and examining of witnesses, as are conferred on Civil Courts by the Code of Civil Procedure; and every such inquiry shall be deemed a judicial proceeding.
- Power to summon and examine witnesses.

**NOTE.—Instructions to Canal Officers invested with Magisterial powers.**

Cases having been brought to the notice of the Chief Court of great delay on the part of Canal Officers invested with Magisterial powers in disposing of breaches of Canal rules, and instances having occurred where persons charged with these offences had been summoned long distances to attend the Canal Officer's Court, the following instructions on the subject have been issued at the suggestion of His Honor the Lieutenant-Governor :—

2. Whenever the disposal by a Canal Officer of a case of breach of Canal rules will involve a delay of more than 14 days, or will involve the summoning of parties and witnesses to a greater distance than if the case should be taken up by the nearest Magistrate competent to receive and dispose of the complaint, the Canal Officer should abstain from exercising his jurisdiction.

3. It should also be remembered that the Magistrate of the District is competent, under Section 528 of the Code of Criminal Procedure, in cases other than those mentioned in the preceding paragraph, to withdraw any criminal case pending in a Canal Officer's Court, and to enquire into or try the case himself, or refer it for enquiry or trial to any other Court competent to enquire into or try the same, whenever it shall appear to him that such a course will promote the ends of justice or tend to the general convenience of the parties.

4. Canal Officers should further understand that in their Magisterial capacity they are subordinate to the Magistrate of the District, and it is the duty of the latter to exercise the same control and supervision over the proceedings of Canal Officers that he does over those of his Assistants.

5. Canal Officers are required to keep up Criminal Registers Nos. III, XVII, and XVIII, and to submit extracts thereof, monthly, to the Magistrate of the District, together with the files of the cases decided by them in their Magisterial capacity. These returns should reach the Magistrate not later than the 5th of the month following that to which they relate.

6. The Government of India have ruled in P. W. D. Resolution No. 170A—I, dated 14th August 1869, that sums realized on account of fines imposed by Canal Officers are to be credited to Public Works Revenue, and not to Law and Justice.—(*Judicial Circular No. LXXXV*).

## PART X.

### OF OFFENCES AND PENALTIES.

**70.** Whoever, without proper authority, and voluntarily, does any of the acts following, that is to say,—

- (1) damages, alters, enlarges, or obstructs any canal or drainage-work ;
- (2) interferes with, increases or diminishes the supply of water in, or the flow of water from, through, over, or under any canal or drainage-work ;
- (3) interferes with or alters the flow of water in any river or stream, so as to endanger, damage, or render less useful any canal or drainage-work ;
- (4) being responsible for the maintenance of a water-course, or using a water-course, neglects to take proper precautions for the prevention of waste of the water thereof, or interferes with the authorized distribution of the water therefrom, or uses such water in an unauthorized manner ;
- (5) corrupts or fouls the water of any canal so as to render it less fit for the purposes for which it is ordinarily used ;
- (6) causes any vessel to enter or navigate any canal contrary to the rules for the time being prescribed by the Local Government for entering or navigating such canal ;
- (7) while navigating on any canal, neglects to take proper precautions for the safety of the canal and of vessels thereon ;

(8) being liable to furnish labourers under Part VIII of this Act, fails, without reasonable cause, to supply or to assist in supplying the labourers required of him;

(9) being a labourer liable to supply his labour under Part VIII of this Act, neglects, without reasonable cause, so to supply, and to continue to supply, his labour ;

(10) destroys or moves any level-mark or water-guage fixed by the authority of a public servant ;

(11) passes, or causes animals or vehicles to pass, on or across any of the works, banks, or channels of a canal or drainage-work contrary to rules made under this Act, after he has been desired to desist therefrom ;

(12) violates any rule made under this Act, for breach whereof a penalty may be incurred,

shall be liable, on conviction before a Magistrate of such class as the Local Government directs in this behalf, to a fine not exceeding fifty rupees, or to imprisonment not exceeding one month, or to both.

Penalty.

NOTE.—The Lieutenant Governor has directed that Magistrates of the 2nd Class shall be competent to hear and determine cases falling under Section 70 of this Act.—(*Notification No. 286, dated 25th March 1884—Punjab Gazette of 27th idem.*)

**71.** Nothing herein contained shall prevent any person from being prosecuted under any other law for any offence punishable under this Act: Provided that no person shall be punished twice for the same offence.

Saving of prosecution under other laws.

**72.** Whenever any person is fined for an offence under this Act, the Magistrate may direct that the whole or any part of such fine may be paid by way of compensation to the person injured by such offence.

Compensation to person injured.

**73.** Any person in charge of or employed upon any canal or drainage-work, may remove from the lands or buildings belonging thereto, or may take into custody without a warrant, and take forthwith before a Magistrate or to the nearest police-station, to be dealt with according to law, any person who, within his view, commits any of the following offences :

Power to arrest without warrant.

(1) wilfully damages or obstructs any canal or drainage-work ;

(2) without proper authority interferes with the supply or flow of water in or from any canal or drainage-work, or in any river or stream, so as to endanger, damage, or render less useful any canal or drainage-work. •

**74.** In this Part the word ‘canal’ shall (unless there be something repugnant in the subject or context) be deemed to include also all lands occupied by Government for the purposes of canals, and all buildings, machinery, fences, gates and other erections, trees, crops, plantations, or other produce, occupied by or belonging to Government, upon such lands.

Definition of ‘canal.’

## PART XI.

### OF SUBSIDIARY RULES.

**75.** The Local Government may, from time to time, with the previous sanction of the Governor-General in Council, make rules to regulate the following matters:—

Power to make, alter and cancel rules.



(1) the proceedings of any officer who, under any provision of this Act, is required or empowered to take action in any matter ;

(2) the cases in which, and the officers to whom, and the conditions subject to which, orders and decisions given under any provision of this Act, and not expressly provided for as regards appeal, shall be appealable ;

(3) the persons by whom, the time, place, or manner at or in which, anything for the doing of which provision is made in this Act, shall be done ;

(4) the amount of any charge made under this Act ;

(5) and generally to carry out the provisions of this Act.

The Local Government may from time to time, with the like sanction, alter or cancel any rules so made.

Such rules, alterations and cancellments shall be published in the local official Gazette, and shall thereupon have the force of law.

NOTES —(a).—The following schedules of water-rates for irrigation and for other purposes as well as navigation tolls leviable on the following Irrigation Works in the Punjab, viz :—

Western Jamna Canal,  
Bári Doáb Canal,  
Delhi and Gurgáon works,

having received the sanction of the Government of India, have been issued by the Hon'ble the Lieutenant-Governor under Section 75.—(Notification No. 4068 I, dated 29th September 1873—*Punjab Gazette* of 2nd October 1873).

#### SCHEDULE OF RATES.

##### WESTERN JAMNA CANAL.

##### Occupier's Rates.

Description of Crops.	Per Acre.	
	By Overflow.	By Lift.
<i>Class I.</i>		
Sugar-cane ... ..	{ Rs. 5 0 0 per crop per annum.	Rs. 3 5 4 per crop per annum.
Gardens .. ..		
<i>Class II.</i>		
Rice ... ..	{ Rs. 3 0 0 per crop.	Rs. 2 0 0 per crop.
Tobacco .. ..		
Opium .. ..		
Vegetables ... ..		
Water-nuts (Singhāras) ..		
<i>Class III.*</i>		
Indigo .. ..	{ Rs. 2 4 0 per crop.	Rs. 1 8 0 per crop.
Cotton ... ..		
All Rabi Corps .. ..		
<i>Class IV.</i>		
All Kharif Crops not specified above ...	{ Rs. 1 10 8 per crop.	Re. 1 0 0
<i>Class V.</i>		
A single watering before sowing, or to fallow lands .. ..	Rs. 1 0 0	Re. 0 10 0

\* With the sanction of His Honor the Lieutenant-Governor, the following corrections are made in the schedules of water-rates under Act VIII of 1873, published at page 583 of the *Punjab Gazette* for 1873, Part I :—

##### Occupier's Rates, Western Jamna Canal.

In Class III for indigo, cotton and all rabi crops, read indigo, cotton, torea, and all rabi crops.—(No. 2874 I, dated 14th July 1874—*Punjab Gazette* of 16th idem).

## WESTERN JAMNA CANAL.

*Charges for use of Water for purposes other than Irrigation.*

Description.	Rate.	Per
Watering cattle ... ..	Rs. A. P.	100 per annum
„ sheep and goats ... ..	6 0 0	100 „
Filling tanks, or water in bulk ... ..	2 0 0	6,000 cubic ft.
	1 0 0	

## WESTERN JAMNA CANAL.

*Navigation Tolls.*

Description.	Rate.	Per
<i>Along whole course of Canal.</i>		Rs. A. P.
Rafts, Sal Timber, 1st Class, above 5 feet girth ... ..	40 0 0	20
„ „ 2nd „ 4 feet to 5 feet „ ... ..	30 0 0	20
„ „ 3rd „ under 4 feet „ ... ..	20 0 0	20
„ Tun Timber, 1st „ above 5 feet „ ... ..	30 0 0	20
„ „ 2nd „ 3½ feet to 4 feet „ ... ..	20 0 0	20
„ „ 3rd „ under 3½ feet „ ... ..	10 0 0	20
„ Sissu Timber 1st „ above 4 feet „ ... ..	20 0 0	20
„ „ 2nd „ 2½ feet to 4 feet „ ... ..	10 0 0	20
„ „ 3rd „ under 2½ feet „ ... ..	5 0 0	20
„ Babul Timber or Spars ... ..	5 0 0	20
„ Ash Spars ... ..	10 0 0	20
„ Fir ... ..	10 0 0	20
„ Kohlu (Sugar or Oil Presses) ... ..	20 0 0	20
„ Sál Golab (round logs) 1st class, large ... ..	10 0 0	20
„ „ „ 2nd „ small ... ..	5 0 0	20
„ „ Ballas (saplings) ... ..	5 0 0	20
„ „ Batahs (small logs) ... ..	5 0 0	20
„ „ Tarracks (rafters) ... ..	2 8 0	20
„ „ Pharahs (side slabs), 1st class ... ..	2 8 0	20
„ „ „ 2nd „ ... ..	1 14 0	20
„ „ „ 3rd „ ... ..	1 4 0	20
„ „ Karries (Joists) 1st class, above 12 feet long ... ..	1 4 0	20
„ „ „ 2nd 9 feet to 12 feet ... ..	0 15 0	20
„ „ „ 3rd under 9 feet ... ..	0 10 0	20
„ „ Tors (straight places free from knots), 1st class ... ..	1 4 0	20
„ „ „ 2nd class ... ..	0 15 0	20
„ „ Ballis (small saplings) ... ..	0 10 0	20
„ „ Plank Packs, 1st class, above 2½ feet girth ... ..	5 0 0	20
„ „ „ „ under 2½ „ „ ... ..	2 8 0	20 "
„ „ Plank ... ..	0 0 2	Foot.
„ „ for Kohlus (round beams) ... ..	1 4 0	20
„ Taran ... ..	0 15 0	20
„ Bamboos ... ..	0 8 0	100
„ Fire-wood ... ..	1 0 0	100 maund.
„ Sarkandah (reads) ... ..	1 0 0	100 bundles
„ Grass ... ..	0 8 0	1,000 „
„ Bán (grass twine) ... ..	1 0 0	100 maunds
<i>For Intermediate distances.</i>		
From Canal Head to Karnal ... ..	One-half of above rate	
„ Karnal to Delhi Branch Regulating Bridge ... ..	One-eighth of above rate	
„ Delhi Branch Regulating Bridge to Bali Bridge Delhi ... ..	„	„
„ Branch Bali Bridge to Bowána Bridge, Delhi Branch ... ..	„	„
„ Delhi Branch Regulating Bridge, to Chapper Bridge, Hansi ... ..	„	„
„ B Chapper Bridge to the Rama Bridge, Hansi Branch ... ..	„	„

## DELHI AND GURGAON WORKS.

## Occupiers' Rates for Irrigation.

Description.	Rate.	Per
All Crops ... ..	Rs. A. P. 0 6 4 $\frac{1}{2}$	Acro.
Grass ... ..	0 8 2 $\frac{1}{2}$	

## BARI DOAB CANAL

## Occupiers' Rates (Section 36).

Description of Crops.	Per Acre.	
	By Overflow.	By Lift.
	Rs. A. P.	Rs. A. P.
Class I.—Sugar-cane ... ..	6 0 0 per crop	3 0 0 per crop.
Class II.—Rice. ... ..	4 12 0 „	2 6 0 „
Gardens ... ..	4 12 0 per $\frac{1}{2}$ year	2 6 0 per $\frac{1}{2}$ year
Class III.—Kharif Crops—		
Cotton ... ..	2 8 0 per crop.	1 4 0 per crop.
Hemp ... ..		
Indigo ... ..		
Turmeric ... ..		
Sesamum (Til) ... ..		
Vegetables ... ..		
Water-nuts ... ..		
Orchards or Plantations of Fruit Trees		
Rabi Crops—		
Wheat ... ..		
Barley ... ..		
Linseed ... ..		
Sarson ( <i>Cinaper Juncea</i> ) ... ..		
Taramira ( <i>Cinaper Eruca</i> ) ... ..		
Mustard ( <i>Campestris</i> ) ... ..		
Poppies ... ..		
Tobacco ... ..		
Tukhm-malanga ( <i>Lallemantia Royleana</i> )		
Safflower ... ..		
Vegetables ... ..		
Chillies, &c. ... ..		
Class IV.—Kharif Crops—		
Jowar (Great Millet) ... ..	1 8 0 per crop.	0 12 0 per crop.
Bajra (Spiked Millet) ... ..		
Kangni (Italian Millet) ... ..		
Maize ... ..		
Not elsewhere mentioned ... ..		
Rabi Crops—		
Gram ( <i>Cicer Arietinum</i> ) ... ..		
Masur ( <i>Ervum Lens</i> ) ... ..		
Urad or mash, &c. ( <i>Phaseolus Roxburghii</i> )		
Grasses ... ..		
Sinji ( <i>medicago</i> ) ... ..		
Not elsewhere mentioned ... ..		
Fallow lands ... ..		
Rabi crops not receiving water after		
December ... ..		
Class V.—A single watering before sowing, or to	0 12 0 „	0 6 0 „
fallow lands ... ..		

## BARI DOAB CANAL.

*Charges for use of Water for purposes other than Irrigation.*

Description.	Rate.			Per
	Rs.	A.	P.	
Watering Cattle ... ..	6	0	0	100 per annum.
„ Sheep and Goats ... ..	2	0	0	100 „
Filling Tanks, or Water in Bulk ... ..	1	0	0	2,500 cubic ft.

## BARI DOAB CANAL.

*Navigation Tolls, per Mile of Canal traversed.*

Description.	Rate.			Per
	Rs.	A.	P.	
Rafts of Timber of all sorts ... ..	0	1	0	Rs. 100 of value at starting place.
„ of Bamboos ... ..	0	6	0	1,000.
„ of Fire-wood, Hemp, Flax and Grass ... ..	0	0	1	100 maunds.
„ of Sarkandah (reeds) ... ..	0	0	1	1,000 bundles.

(*va*). Under Rule 11 of the Rules framed under Act VIII of 1873, the Hon'ble the Lieutenant-Governor is pleased to sanction the following Schedule of Rates for the supply of water for purposes other than irrigation, and to declare them applicable to the undermentioned Canals,

2. The Schedules of Rates published in *Punjab Gazette* Notification No. 4068 E.I., dated 29th September 1873, are hereby cancelled in so far as they relate to the supply of water for such purposes.

## REVISED SCHEDULE OF RATES FOR THE SUPPLY OF WATER FOR PURPOSES OTHER THAN IRRIGATION.

*Purpose for which supplied.*

	Rate.			
	Rs.	A.	P.	
Brick-making and pisé wall building ... ..	0	3	0	per 100 cubic feet.
Laying concrete and brick or stone masonry ..	0	2	0	ditto.
Metalling Roads ... ..	10	0	0	per mile.
Water supplied in bulk ... ..	1	0	0	per 2,500 cubic feet.

*Canals to which the above Schedule is applicable*

Western Jumna Canal.

Bari Doab Canal.

Sirhind Canal.

Swat River Canal.

Chenab Canal.

Upper Sutlej Canals.

(No. 3235, I, dated 11th May 1888, *Punjab Gazette* of 17th idem, Part I, page 420).

Under Rule 11 of the Rules framed under Act VIII of 1873, the Hon'ble the Lieutenant-Governor is pleased to declare that the Schedule of Rates for the supply of water for purposes other than irrigation, sanctioned in Punjab Government Notification No. 3235, I., dated 11th May 1888, is applicable to the undermentioned Inundation Canals, with the following proviso:—

*Irrigators* from the Canals specified in this Notification will be entitled to the free use of water for the purposes specified in the Schedule, and no charge shall be levied from them in respect of such use.

*Inundation Canals to which the Schedule is hereby made applicable.*

Lower Sutlej and Chenab Series of Inundation Canals.

**Indus Series of Inundation Canals.****Muzaffargarh Series of Inundation Canals**

(No. 5122 I, dated 24th August 1888, *Punjab Gazette*, of 30th idem, Part I, page 630).

(b).—The Hon'ble the Lieutenant-Governor is pleased to direct that the following rate for watering road-side trees from the Punjab Canals be added to the above schedules :

Half anna per tree per annum, applicable to all canals administered by the Canal Department in the Punjab.—(*Punjab Government No 4553 I, dated 15th October 1878, Punjab Gazette of 17th idem*)

(c). For rates at which the use of canal water will be granted for working machinery, the rules for such grants, and the localities in which water-power is available for such purpose, see *Punjab Government Notifications No. 4288 I, dated 17th October 1877 (Punjab Gazette of 18th idem)*; and No. 1065 I, dated 9th March 1878 (*Punjab Gazette of 14th idem*).

(d). The Honor the Lieutenant-Governor is pleased, with the previous sanction of the Governor-General in Council, to notify, under Section 75 of Act VIII of 1873 that the following water rates will be levied on lands irrigated in the Gurgaon district from the works known as the Kotla embankment and Chaudni drainage works with their subsidiary works :—

**OCCUPIER'S RATES, Section 36.**

Per acre.

Rs. A. P.

All crops ... 0 6 8 per crop.

**OWNER'S RATES, S. 37.**

Per acre.

Rs. A. P.

All crops ... 0 3 4 per crop.

*Proviso 1st.*—The owner's rate shall nowhere exceed the sum which, under the rules for the time being in force for the assessment of land revenue, might be assessed on such lands on account of the increase in the annual value or produce thereof caused by the canal.

*Proviso 2nd.*—All lands irrigated from wells or other sources at the time of the last Settlement, and then assessed at irrigated rates, shall be excluded from the operation of owner's rates.—(*Notification No. 299, dated 15th March 1879, Punjab Gazette of 20th idem*).

(e). It is hereby notified, under Section 75 of Act VIII of 1873, that the Hon'ble the Lieutenant Governor, with the previous sanction of the Governor-General in Council, is pleased to fix an occupier's rate of Rs. 2-8-0 per acre to be charged uniformly on all classes of crops irrigated by flow from the Chenab Canal.

The charge for lift irrigation will be two-thirds that for flow.

(No. 1329 I, dated 22nd March 1887, *Punjab Gazette of 24th idem, Part I, Page 200*).

(f). The following schedule of water-rates for irrigation on the Sirhind Canal, having received the sanction of the Government of India, is issued by the Hon'ble the Lieutenant-Governor of the Punjab under Section 75 of Act VIII. of 1873 :—

Class.	Crops.	RATE PER ACRE.					
		By flow.			By lift.		
		Rs.	A.	P.	Rs.	A.	P.
I.	Sugar-cane, rice, water-nuts	7	8	0	5	0	0
II.	Gardens, orchards, tobacco, poppies, vegetables, indigo, maize	4	8	0	3	0	0
III.	Cotton, fibres, all dyes (except Indigo) ; all rabbi crops (except gram and masur)	3	12	0	2	8	0
IV.	All kharif crops, not specified above, and rabbi crops of gram and masur.	2	10	0	1	12	0
V.	Single watering before ploughing for fallow lands	0	12	0	0	8	0
VI.	Single watering for ploughing to sow	1	8	0	1	0	0

(Notification No 0819 I, dated 24th August 1885, *Punjab Gazette of 27th idem, Part I, Page 658*).

(g). With the previous sanction of the Governor General in Council, and under the provisions of Section 75 of Act VIII of 1873, the Hon'ble the Lieutenant-Governor is pleased to rule that the following Schedule of Navigation tolls shall have force on the Western Jumna Canal with effect from the 1st January 1887 :—

## BOAT RATES.

		Per month.			Per diem.		
		Rs.	A.	P.	Rs.	A.	P.
Class A.—Over 10 feet beam	...	7	0	0	...	0	4
„ B.—Over 6 „ and up to 10 feet beam	...	5	0	0	...	0	3
„ C.—Six feet beam and under	...	2	0	0	...	0	2

Monthly passes will be issued on prepayment of a full month's toll. On the expiry of a pass the daily rate will be charged for every day a boat remains in the canal without a renewal of the pass.

The daily rates are subject to a minimum charge of 6 days toll when a boat leaves dock or enters the canal.

## RAFT RATES.

Rs. A. P.

1st Class.—Logs, whether round or squared, exceeding 2½ feet in girth, and sleepers per 100 cubic feet of raft per mile ( <i>with a minimum distance charge of 40 miles</i> )	0	0	9
2nd Class.—Logs less than 2½ feet in girth, including karis, ballis, bullahs, &c., per 100 cubic feet of raft per mile	0	0	4
3rd Class.—Bamboos and sirkandahs (reeds) per 100 cubic feet of raft per mile	0	0	2
4th Class.—Firewood per 1,000 cubic feet of raft per mile	0	0	4

Special through rates for rafts of the 1st Class between the undermentioned stations and Delhi will be charged as follows :—

	Rs.	A.	P.	
Tajawala to Delhi	4	6	8	} Per 100 cubic feet of raft.
Madalpur or Abdullapur to Delhi	2	8	0	

This supersedes Notification No. 2978, dated 27th July 1880.

(Notification No. 183 I, dated 10th January 1887, Punjab Gazette of 20th idem, Part I, page 22).

(h). In exercise of the powers conferred on him by Act VIII of 1873, and with the approval of His Excellency the Governor-General in Council, the Hon'ble the Lieutenant Governor is pleased to direct the publication of the following rules, and to declare them applicable to the undermentioned Canals :—

*The Bari Doab Canal and all its Branches*  
*The Western Jamna Canal and all its Branches*  
*The Upper Sutlej Inundation Canals*  
*The Lower Sutlej and Chenab Inundation Canals.*  
*The Indus Inundation Canals.*  
*The Inundation Canals in Shahpur and Bannu Districts under the control of Government.*

## \* RULES ISSUED UNDER ACT VIII OF 1873.

## PART III.

## OF CONSTRUCTION AND MAINTENANCE OF WORKS.

1. *Orders for construction of Works.*—The order which a Divisional Canal Officer may issue under Section 18 shall be in writing, and shall be served on each person concerned, or his representative, as a civil process, through the Deputy Commissioner.

2. *Proceedings of Superintending Canal Officers on reference.*—The Superintending Canal Officer before confirming or modifying a decision passed by the Divisional Canal Officer, under Section 20, shall hear and record any objections made to such decision by the parties interested, or their representatives, to whom at least fourteen days' notice of the date and of the place at which the Superintending Canal Officer will consider the Divisional Canal Officer's decision shall be given.

3. *Proceedings of Deputy Commissioner.*—The notice, which the Deputy Commissioner is bound to give to the Canal Officer under Section 24, shall not be less than fourteen days.

4. *Opening of new water-courses.*—Water shall not be admitted into any new water-course until all works necessary for the passage across such water-course of water-courses existing previous to its construction, and of the drainage intercepted by it, and for affording proper communications across it for the convenience of the neighbouring lands, are completed to the satisfaction of the Divisional Canal Officer.

5. *Applications for water.*—All applications for water, or for the construction or improvement of water-courses, under Part III of the Act, shall be in the form prescribed in Appendix No. I.

\* NOTE.—These rules have been modified and added to by Notifications No. 4233 I., dated 15th September 1879, and No. 3027 I., dated 11th August 1881. The amendments have been embodied.

## PART IV.

## OF THE SUPPLY OF WATER.

6. *Limit of length of water-courses.*—Water shall not ordinarily be granted to lands where the length of the water-course from its head to its point of contact with the fields exceeds two miles.
- Section 31
7. *Apprehended wastage.*—Applications under Section 16 of the said Act shall not be granted where, in the opinion of the Divisional Canal Officer, loss from wastage is likely to occur. From this decision an appeal may be preferred to the Superintending Canal Officer.
- Section 16
- 7A.—Such applications shall not ordinarily be granted in respect of lands where the available supply of water in the Canal, distributary, or water-course is already fully utilized.
8. *Sanitary reasons.*—The Divisional Canal Officer shall not engage to grant water for the irrigation of any kharif crops upon lands within one mile from the outermost houses of any town, if such irrigation be objected to by the Municipal Committee (or if there be no Municipal Committee, by the Deputy Commissioner), and the objection is approved by the Superintending Canal Officer and the Commissioner of the Division. Should these Officers differ in opinion, the question will be referred to Government in the Irrigation Department, whose decision shall be final.
- Section 31
- 8A. *Prohibition of irrigation in the vicinity of Cantonments.*—When the Local Government has by a notification in the official Gazette declared that the irrigation of certain crops within a specified distance from the boundary of a cantonment ought not on sanitary grounds to be permitted, no engagement for a supply of water shall be made against the terms of such prohibition.
- Section 31
- (*Punjab Government Notification No. 3493 I, dated 26th June 1884, Punjab Gazette of 10th July, Part I, page 814*)
- Republished and made applicable to the Swat River Canal by No. 4444 I, dated 4th October 1887, *Punjab Gazette* of 6th idem, Part I, page 550.
- NOTE.—With reference to Rule 8a, Section 31, Act VIII of 1873, His Honor the Lieutenant-Governor is pleased to prohibit the irrigation of rice from the Swat River Canal within a limit of one mile from the boundaries of the Cantonment of Mardun.
- (*Notification No. 599, I, dated 12th August 1884, Punjab Gazette of 21st idem, Part I, page 869*).
9. *Preparation of fields.*—A Divisional Canal Officer may withhold or postpone the issue of water to any cultivator, whose fields he may have ascertained by personal inspection (by himself, one of his Assistants, or the Canal Deputy Collector) to be unprepared for irrigation by division into *kharis* or compartments not greater in area than 36 feet by 36 feet, and by the addition of small water-channels, as is customary in irrigation from wells.
- Section 31
- a.—When a field is irrigated which has not been so prepared, an additional charge may be imposed equal to half the amount of occupier's rate leviable on the field.
- b.—Rice-fields and gardens are exempted from the operation of this rule.
- c.—In each case the Divisional Canal Officer, the Sub-Divisional Canal Officer, or Canal Deputy Collector, must certify that he personally examined the field, and that it was not properly prepared for irrigation according to the terms of the rule.
- d.—An appeal against the orders of the Divisional Canal Officer, may be preferred to the Superintending Canal Officer.
- 9A.—When a field is irrigated which has not been so prepared, an additional charge may be imposed, not exceeding half the amount of occupier's rate leviable upon the field.
10. *Filling of tanks for watering cattle.*—Tanks may be filled with canal water without charge, and without reference to the area irrigated in any village, whenever water can be made available without injury to the cultivation dependent on any canal, under the following regulations:—
- Section 31
- I. Except as provided in Rule 12 (a), no tank shall be so filled unless exclusively used for domestic purposes and for watering cattle; such tanks are generally in the immediate neighbourhood of villages.
- II. No tank shall be so filled, which, intercepting any line of drainage, is liable to overflow from accumulation of water derived from natural causes.
- III. No tank shall be so filled except on the written order of the Sub-Divisional Canal Officer, issued on the written applications of the parties concerned. The filling of tanks can only be permitted at such times and to such extent as the Sub-Divisional Canal Officer approves.
- IV. No tank shall be so filled unless the water-course used to fill it shall be shown to the satisfaction of the Sub-Divisional Officer to be in a sound condition when the application is made.
- V. Except as provided in Rule 12 (a), every tank so filled shall be used exclusively for domestic purposes or for watering cattle; and in the event of any breach of the foregoing regulations by any person for whose benefit the tank has been so filled, or in the event of any

such person using any tank so filled otherwise than for domestic purposes or for watering cattle, except as provided by Rule 12 (a), the privilege by this rule afforded may, in addition to any penalty which may be incurred under the Act, be suspended for 12 months by order of the Divisional Canal Officer passed on a regular proceeding and inquiry in each case; from his order an appeal may be preferred to the Superintending Canal Officer.

11. *Contracts*.—The Divisional Canal Officer, with the previous sanction of the Superintending Canal Officer, is empowered to make contracts for the supply of canal water for purposes other than irrigation, not specified in the schedule of rates, for any term not exceeding one year. For terms exceeding one year the previous sanction of the Local Government shall be necessary.

12. *Charges for water used for purposes other than irrigation*.—Tanks may be filled with canal water for purposes other than those stated in Clause I. of Rule 12: such water will be charged for at rates and subject to conditions to be determined by the Local Government in each case.

12A. Irrigation may also be carried on from tanks, provided the previous sanction of the Sub-Divisional Canal Officer be obtained. The usual rates will be charged for such irrigation.

13. *Water supplied to cantonments, towns &c.*—When water is supplied to forts or other military buildings, cantonments, civil stations, cities, towns, railways, public gardens or other places of public resort, either by filling of tanks or by direct flow, contracts at special rates may be accepted by the Divisional Canal Officer with the previous sanction of the Local Government.

14. *Water power*.—The use of water-power may be granted by the Divisional Canal Officer at such rates, and under such conditions, as may be sanctioned by the Local Government in each case.

15. *Tatils*.—Divisional Canal Officers are empowered, for purposes of administration, Section 32 (a). repairs and maintenance, to order the closure of any water-course for periods which shall not extend beyond twelve consecutive days. For longer closures the authority of the Superintending Canal Officer is required.

Section 32 (a) 16. Orders for closures under Rule 15 must be notified either—  
(a) by a notification  
(b) by a special order.

Such notification or order shall be in writing under the hand of the Divisional Canal Officer, and a copy shall be conveyed by the Canal establishment with due expedition to each village concerned, and delivered to the Patwari, or, in his absence, to any Lambardar. The receipt of each person to whom a copy of the notification or order is delivered shall be affixed to a schedule prepared for the purpose, which shall be recorded in the Divisional Canal office.

It shall be the duty of the Patwari or Lambardar who receives the notification or order above described to affix it at once in a conspicuous position in the village, and to make its purport generally known.

17. *Stoppage of supply in improperly maintained water-courses*.—Stoppage of supply of water to any water-course under Section 32 (a) (2) may be enforced when the Canal Officer ordering the stoppage has satisfied himself, by personal inspection, that the water-course is not maintained in proper repair. The order for such stoppage shall be in writing under the hand of the Divisional Canal Officer, and an immediate report shall be made to the Superintending Canal Officer, and the special grounds for stoppage explained. The Superintending Canal Officer's order shall be final.

Section 32 (a). 18. *Report of closures*.—Immediate report shall be made to the Superintending Canal Officer of all closures under case (1), Section 32 (a).

19. Nothing in the foregoing rules shall be taken to affect the power of a Canal Officer to close any water-course, or stop any supply of water on his own authority in cases which he deems to be of pressing emergency.

20. *Claims for remission*.—All claims for remission of occupier's rate under Section 32 (b) shall be made to the Divisional Canal Officer previous to the cutting of the crop. The Divisional Canal Officer may reject or admit any claim. If the claim be admitted, the Divisional Canal Officer may remit to the limit of 50 rupees in each individual case, provided that the aggregate remissions for any one village do not exceed 200 rupees. If the Divisional Canal Officer considers that higher remissions should be granted than those above specified, the sanction of the Superintending Canal Officer must be obtained. Pending the decision, the collection shall be suspended.

Claim to remission of ordinary charges, other than occupier's rates payable for the use of the canal water, shall only be admitted on proof of actual loss caused by the stoppage of supply; on proof of such loss, the whole, or any portion of the charges, may be remitted, as hereinbefore provided.



If a claim for remission of ordinary charges, other than occupier's rates, be rejected by the Divisional Canal Officer, the claimant may prefer an appeal to the Superintending Canal Officer.

## PART V.

### OF WATER-RATES.

21. *Charges for the use of water.*—The charge for the use of water shall be made on the area irrigated at the rates specified in the schedules for the time being in force, and subject to the following rules :—  
Section 36.

22. *Charge leviable for "paleve" when no crop is sown.*—When a field receives the first or preliminary watering, and afterwards no crop is sown, the lowest rate of charge for "lift" or "flow," as the case may be, will be imposed. One watering after the crop has been sown shall be charged for at the rate leviable for the whole crop, or the whole year, as the case may be.  
Section 36.

23. *Charge for mixed crops*—If mixed crops be grown in the same field, the occupier's rate shall be calculated on the highest rated crop.

24. *Charge for different crops grown in the same field.*—If different crops be grown in different parts of the same field, the occupier's rate shall be calculated on the highest rated crop, unless the division between the crops shall have been clearly defined by a ridge not less than half a foot high.

25. *Charge leviable on fields re-sown.*—When the original crop sown in a canal-irrigated field fails, and is ploughed up, and a fresh crop sown in the same season, the occupier's rate to be levied is that due on the crop which comes to maturity.

26. *Occupier's rate for fields partly irrigated.*—If only a portion of a field be irrigated, the occupier's rate shall be chargeable on the whole field unless such portion shall have been clearly demarcated by a ridge not less than half a foot high.  
Section 36.

27. *Charge leviable on fields partly irrigated from canals, partly from wells or other sources.*—Where a portion of a field has been irrigated with the canal water, and a portion with water from a well or any other source, the whole field will be treated as irrigated with canal water, unless a clearly distinguishable boundary demarcated by a ridge not less than half a foot high exists between the two portions. Where such a boundary exists, enquiry will be made whether the use of water from a well or any other source was owing to deficiency in the supply of canal water, in which case the canal charge on the portion irrigated by canal water should be reduced to lift rates.  
Section 36.

28. *Use of canal water-courses for conveyance of water from a well or any other source.*—If water from a well or any other source is conveyed in the same channel as canal water in the course of the same season, the whole of the irrigation from that channel during such season is liable to be treated as irrigation from the canal.  
Section 36.

29. *Charge leviable for permanent irrigation from escapes.*—Irrigation from escape channels, when the supply is permanent, shall be governed by the same rules as irrigation from other parts of the canal.  
Section 36.

30. *Charge leviable for intermittent irrigation from escapes*—Irrigation from such channels, when the supply is intermittent, may be allowed at such reduced rates as shall from time to time be fixed by the Local Government in each case.

31. When a natural drainage channel or reservoir, not being part of the canal, is used as an escape channel, if it is so used at the request of persons desirous of irrigation from it, the same rates shall be chargeable for irrigation from it as for irrigation from an escape channel. Provided that the area, if any, irrigated from it previous to the introduction of canal water shall not be liable to water rate; the amount of such area shall be determined by the Deputy Commissioner. In all cases in which water is supplied under this rule, a written contract shall be executed, setting forth the terms on which it is supplied.

32. *Charge leviable for the unauthorized use of water.*—Persons irrigating from a Canal without permission, or taking water at times prohibited by proper authority, shall be chargeable with a special water rate which shall be double the water rate which would have been chargeable for the authorized irrigation of the area irrigated.

The area shall be measured, and notice shall at once be given to the persons so irrigating that they will be charged in the demand statement double rates under this rule for the area thus watered.

33. *Charge leviable for "Ab-zai" (waste of water).*—The charges leviable for water used in an unauthorized manner, or suffered to run to waste, shall be—  
• Section 36.

(1).—On cultivated lands, —double the crop rate which would otherwise be leviable on the area flooded.

(2).—On uncultivated lands,—the flow rate chargeable for a first watering before sowing

The area shall be measured up as soon as possible, and the persons chargeable with this rate having been determined in accordance with the provisions of Section 33 of Act VIII of 1873, notice shall be given to them that they will be charged accordingly in the demand statement.

The special rates mentioned in this and the preceding rule shall be in addition to such penalties as may be imposed under Section 70 of the Act.

33 A. In cases where an addition is made to the occupier's rate by way of penalty as in Rule 9 A, and Rules 32 and 33, the original amount of the occupier's rate only, and not such additional amount shall be taken as the basis for calculating owner's rate.

34. An appeal against any charges made under Rules 22 to 33 inclusive may be preferred to the Commissioner.

35. *Schedule of rates to be accessible to villagers.*—The Patwari of every village irrigated by canal shall be furnished by the Divisional Canal Officer with a statement in Hindi, or the current written language of the District, showing the rates of assessment of each class of produce per ordinary local and canal measurements, which statement shall be suspended in the Chaupal or other place of public resort.

36. *Patwaris' fees.*—The allowance to Patwaris employed in the Irrigation Department shall be 2 per cent. on the amount of collection; this payment to be conditional on their affording satisfaction to the Divisional Canal Officer in respect to their duties in connection with the measurements and assessments, and to the Deputy Commissioner in respect to their duties connected with the collection of canal revenue.

37. *Lambardars' fees.*—The allowance to Lambardars, or other persons collecting from cultivators, shall be 3 per cent. on the amount collected, on condition that the full amount due has been paid within three months of the issue of the demand statement, and that the Lambardar has performed his duty connected with the assessment, such as personal attendance or deputation of a proper substitute at the time of measurement, and correct report of irrigation.

Provided that it shall be at the discretion of the Deputy Commissioner or Divisional Canal Officer, as the case may be, subject to the appeal allowed by Rule 76, to withhold the whole or part of the allowances prescribed in Rules 36 and 37, in the event of the conditions not being complied with.

## PART VI.

### NAVIGATION.

38. *Tolls.*—When a Government canal shall have been declared by the Local Government open for navigation, tolls and charges on boats and rafts plying thereon shall be levied on such a system and at such rates, as shall be from time to time determined by the Local Government with the approval of the Government of India; such system and

rates being published by notification in the *Government Gazette*.

39. *Ferries.* Ferry boats shall not be permitted to ply on the canal except under a written license, in the form contained in Appendix II., from the Divisional Canal Officer, and subject to conditions therein laid down. An appeal against an order revoking such license may be preferred within fifteen days to the Superintending Canal Officer.

40. *Measurement.*—Every boat or raft entering a Government canal shall be liable to measurement, for the purpose of ascertaining the amount of toll the boat or raft shall pay according to the Schedule of rates in force at the time being

41. *Number.*—Every boat, at the time of first measurement, shall be given a serial number by which it shall be distinguished while plying on the canal. The number shall be fixed on the port or left hand bow of the boat and shall not be less than eight inches in height, and shall be of such a colour as to be easily distinguishable at a distance of 100 yards.

42. *Ticket.*—Every boat on entering a canal shall be furnished with a ticket, in the form contained in Appendix III., which shall specify the number of the boat, the date on which it entered the canal, the name of the owner of the boat, his occupation and place of abode, and the name of the person in charge of the boat. Upon leaving the canal, the Divisional Canal Officer shall enter on the ticket the date of leaving and shall return the ticket to the person in charge of the boat.

43. *Dimensions.*—No boat above 14 feet beam over all shall be allowed in a canal on which the locks are 16 feet in width, and no boat above 18 feet beam over all in a canal on which the locks are 20 feet in width. No raft of more than 14 feet in width and 90 feet in length shall be

allowed on any canal the locks of which are 16 feet; and no raft of more than 18 feet in width and 100 feet in length will be allowed in a canal the locks of which are 20 feet in width.

44. *Tolls payable in advance.*—Tolls on boats are payable in advance, and no boat shall be allowed to leave any canal on which it is plying until all such tolls and charges have been duly liquidated. The officer granting permission for the boat's removal shall sign the certificate at the foot of the ticket given under Rule 42 (Appendix III.) after satisfying himself that all claims against the boat have been paid.

45. *Receipt for tolls.*—Tolls may be paid either to the Divisional Canal Officer, or to the person appointed by him, hereinafter called the Agent at any of the toll stations, and a receipt, in the form contained in Appendix IV shall be granted for the same.

46. *Pass for boats.*—Upon any boat plying on a canal being freighted, the owner or person in charge shall declare to the Divisional Canal Officer or his Agent at the place of loading (or if there be none there, to the first he may pass on his journey), an invoice of the cargo, showing the nature, weight, value and destination. The Divisional Canal Officer or his Agent shall thereupon furnish such person in charge with a pass, in the form contained in Appendix V., specifying the foregoing particulars, which pass shall be delivered up to the Agent nearest to the place at which the vessel is unloaded.

47. *Pass to be shown when required.*—It shall be obligatory on the person in charge of a boat to show the pass granted under Rule 42, when called upon to do so by the Divisional Canal Officer or his authorized agent.

48. *Every boat or raft to be navigated by two persons.*—No boat or raft shall be navigated by less than two persons.

49. *Pass for rafts.*—Passes in the form shown in Appendix VI. shall be granted to persons wishing to float rafts down a canal upon application to the Divisional Canal Officer or the nearest Agent. No raft unprovided with a pass shall enter a canal.

50. *Removal of rafts from canal.*—On reaching the destination specified in the pass, the person in charge of a raft shall, within 24 hours, deliver the said pass to the local Agent, who, if all is in good order, shall authorize the removal of the raft which shall be effected within 48 hours from the time of permission being granted, unless written authority to defer removal be given by the Agent.

51. *Divisional Canal Officer empowered to remove rafts.*—Rafts not removed within the time required by Rule 50, and rafts found unattended, may be taken out of the water by the Divisional Canal Officer or his Agent.

52. *Rafts without passes.*—Any raft found in a Government canal unprotected by a pass may be charged with double toll reckoned on the distance from the head of the canal to the place where such raft shall be removed from the canal.

53. *Double rates to be charged for excess over quantity shown in pass.*—Double rates shall be leviable on all articles in excess of the quantity of each kind specified in the pass granted under Rule 49.

54. *Removal of rafts lodging against Canal works.*—Every person floating a raft in a canal shall so navigate it that it shall not lodge against any canal works; and if any raft so lodges or causes obstruction, it shall at once be broken up and removed by any Canal Officer on the spot.

55. *Masts.*—Boats must have their masts fitted so that they can be let down with ease and speed; and no mast shall be so high as to strike or scrape any bridge under which the boat may pass.

56. *Boats and rafts to be fastened fore and aft.*—Every boat or raft which is brought to alongside of a canal bank or wharf must be securely fastened fore and aft to the bank or wharf: no boat or raft can be brought up outside another so moored without the permission of the Divisional Canal Officer.

57. *Boats and rafts to be moored so as not to obstruct traffic.*—No boat or raft shall be placed in such a position as to endanger the safety of other boats or rafts, or to obstruct the passage, or to impede navigation; and no bamboos or poles shall be allowed to be erected, or to remain erected on vessels moored to the bank.

58. *Every boat or raft when brought to to have some one on board.*—Every boat and raft when brought to shall at all times have some person in attendance on board.

59. *Wrecks.*—In every case of a wreck or obstruction of a canal channel by a sunken, or partially sunken, boat or raft, the Divisional Canal Officer may call upon the owner or person in charge to remove the same without delay. Should the owner or the person in charge not be forthcoming, or should he refuse to remove the wreck or obstruction, or should he not within 48 hours commence to remove the wreck or obstruction, then the Divisional Canal Officer may undertake the removal under Section 49 of the Act.

60. *Banks or berms not to be used as wharves.*—The banks or berms of the canal shall not be used as wharves for the deposit of goods, except with the permission of the Divisional Canal Officer, or of some person authorized in his behalf.

61. *Goods to be removed from canal lands*—All goods shall be removed from canal lands within seven days, unless the written permission of the Divisional Canal Officer be obtained to their remaining longer. All goods deposited on canal lands must be properly stacked, and so placed as not to interfere with other traffic. In the event of such goods not being removed when required, a charge of four annas per 100 mounds per diem shall be levied, when the goods are susceptible of being reckoned by weight, or a proportionate charge shall be determined by the Divisional Canal Officer when the goods are reckoned by number. This rule does not apply to canal ware-houses, for which special rules will be framed.

62. *Boats or rafts liable to be examined.*—Any boat or raft plying on a canal may be examined by any Canal Officer, of rank not inferior to a Sub-divisional Canal Officer, or by any agent, provided that there is reason to believe that the owner or the person in charge thereof is attempting to evade the canal rules.

63. *Canal closures.*—Any canal may be closed once a year for the execution of needful works, on one month's notice published in the *Government Gazette* of the intention so to close it. Any canal may also be closed at any time without notice in the event of any sudden emergency and no claim for compensation to any owner, or person in charge of any boat or raft navigating the canal, shall be created by unavoidable detention resulting from such closure; or from the depth of water being at any time unavoidably reduced in the canal; or from the failure of any weir, lock bridge or other work in the canal bed. The fact of an emergent closure having been authorized shall be notified in the *Government Gazette*.

#### PART VIII.

##### OF OBTAINING LABOUR, &c

64. Persons exercising the handicrafts detailed below shall, in addition to the agricultur—  
PART VIII—Section 53. ista, be deemed labourers for the purposes referred to in Part VIII :—

Workers in leather	..	.	Mochi.
Ditto oil	...	...	Teli.
Ditto earthenware	...	...	Kumhar.
Weaver	...	..	Julaha.
Washerman	...	..	Dhobi.
Water-carrier	.	..	Bhisti.
Barber	...	..	Nai.
Bearer	...	..	Kahar.
Fisherman	...	.	Jhiwar.
Millers generally	...	..	Kahar.

#### PART X.

##### OF OFFENCES AND PENALTIES.

65. *Offences under Canal Act triable by Magistrates of the 2nd Class*—The Lieutenant Governor is pleased, under Section 70 of the Act, to direct that charges of offences under that section shall be cognizable by a  
Section 70. Magistrate of the 2nd Class.

66. No person, without the permission, in writing of the Divisional Canal Officer, shall pass, or shall cause any animal or vehicle to pass on or cross any  
Section 70—Clause 11. of the roads, works, banks or channels of a canal, or drainage work, after he has been desired to desist therefrom, excepting upon such bridges, fords and ferries, and their approaches, as are provided by the Divisional Canal Officer.

#### PART IX.

##### SUBSIDIARY RULES.

67. *Assessment and realization of occupier's rate*—The amount demandable for occupier's rate shall be determined and apportioned by the Divisional Canal Officer, and the Deputy Commissioner shall realize the sums due.

68. *Khataoni to be accessible to villagers.*—The Patwari is responsible that the village copy of the khataoni or demand statement is at all times accessible  
Section 75. to any person who pays for canal water.

69. *Distribution of parchas.*—As soon as the khataoni is completed, the Amin shall tender to each cultivator a *parcha*, or slip containing the particulars of water-rate due from him with the date on which it was given noted on it. All *parchas* remaining unclaimed shall be

left for delivery with the Patwari of the village, or, in his absence, with the Lambardar. The *parchas* shall be in the form detailed in Appendix VII.

70. *Complaints against Khasrah entries*.—If a cultivator desires to contest the correctness of the entries made against him in the demand statement, whether as to the fact of the land having been irrigated, or of its being charged "flow" or "lift," or as to the measurement and entries of class or crop, he must lodge a complaint with the Divisional, or Sub-Divisional Canal Officer, or Deputy Collector, within twenty-one days of date of receipt of *parcha* by the cultivator; or, if he should not have received a *parcha*, within ten days of the date on which he first became acquainted with the claim against him, and the complaint must be investigated on the spot within fifteen days of receipt, and promptly decided.

The order of the Divisional or Sub-Divisional Canal Officer, or Deputy Collector in such cases shall be forthwith communicated to the complainant, and shall be subject to appeal to the Commissioner of the Division.

71. *Objections may be made by a Lambardar, &c., on behalf of cultivator*.—When a Lambardar or other person is responsible, under Sections 46 and 47 of the said Act, for the payment of the occupier's rates in a village or any portion of a village, complaints under these rules may be lodged by such Lambardar or Contractor, instead of by the cultivators, and any refund that may be necessary in consequence of the order passed upon objection so lodged, shall be paid by the Deputy Commissioner to such Lambardar or Contractor on account of the cultivators concerned.

72. *Method of dealing with alterations in the demand*.—If after the giving of the *parcha* any addition is made to the demand, or any reduction is allowed on a complaint under Rule 22 or 37, or by way or remission under Section 32, clause (b) of the Act or otherwise, such addition or reduction shall be communicated to the cultivator by means of supplementary *parchas*. Demands shall be shown in black, and remissions in red, letters. All such alterations as are made before the despatch of the *khataoni* to the Deputy Commissioner shall be included in that document, and shall also be written on slips similarly printed (black for additions and red for reductions) and attached to the *khataoni*. Alterations made after the despatch of the *khataoni* shall be communicated to the Deputy Commissioner by means of similar slips.

73. *Objections to the demand*.—Objections to the demand urged before the Deputy Commissioner shall be referred by him to the Divisional Canal Officer, the collection not being suspended except on the receipt of an intimation from the Divisional Canal Officer that an objection has been admitted by him.

74. *Irrecoverable balances*.—Balances found to be irrecoverable owing to want of assets, absconding of defaulters, or any other such cause, and claims to refund on the ground of mistakes in collection, shall be dealt with by the Deputy Commissioner under the rules for suspension, remission and refund of land revenue.

75. *Payments of refunds*.—In all cases payment of refunds will be made by the Deputy Commissioner.

76. *Appeal against retrenchment of fees*.—An appeal against retrenchment of fees of Lambardars and Patwaris shall lie to the Commissioner of the Division or Superintending Canal Officer, according as the retrenchment has been made by the Deputy Commissioner or Divisional Canal Officer.

77. *Receipts for water-rate*.—Receipts shall, when demanded, be given by the Lambardar or other person making the collection to each cultivator on payment of occupier's rate.

78. *General prohibition*.—No person employed on a canal shall, without previous sanction obtained from the Divisional Canal Officer, have any interest in the distribution or use of water from the said canal, or purchase or bid for, any government property sold thereon, either in his own name, or in the name of another, or jointly, or in shares with others.

#### PROCEDURE.

79. *Special Rule of Procedure for the Dera Ghazi Khan District*.—In the Dera Ghazi Khan District appeals under Section 32 (b.) of the Act shall lie to the Superintending Canal Officer and those under Sections 33 and 34 shall lie to the Deputy Commissioner of the District.

#### OF APPEALS AND REFERENCES, AND THE PROCEDURE THEREIN.

80. *Interpretation*.—In the following Rules the expression "the Court" denotes the Officer to whom in the particular case an appeal may be preferred under the provisions of the Act, or the Rules made thereunder for the time being in force.

81. *No appeal except when expressly given*.—No appeal shall lie from any decision or order given or made under any provision of the Act, except where an appeal is expressly allowed by the Act or by the Rules made thereunder for the time being in force.

**82. Period for appealing** --The period for presenting an appeal shall be thirty days, unless any other period is expressly prescribed, and in the latter case the period so prescribed.

But any appeal may be admitted after the period prescribed when the appellant satisfies the Court that he had sufficient cause for not presenting the appeal within such period.

**Extension of time.** If the period prescribed expires on a day when the Court is closed, the appeal may be presented on the day that the Court re opens.

**83. Calculation of period** --The period prescribed shall be calculated from the date of the decision or order appealed from, and in computing such period the day when the decision or order was made, and the time requisite for obtaining a copy of the decision or order appealed against, shall be excluded.

**84. Form of appeal** --The application for admission of an appeal shall be stamped in accordance with the law in force relating to Court fees, and shall be accompanied by a copy of the decision or order appealed against, and shall state concisely the grounds upon which the appeal is preferred.

**85. When appeal may be summarily rejected** --The application may be rejected if, upon a perusal of the grounds of appeal and the copy of the decision or order appealed against, it appears to the Court unnecessary to call for the proceedings.

**86. Procedure on admission of appeal** --If the application be granted, an entry thereof shall be made in a register of appeals, numbered consecutively, and a day shall be fixed for the hearing of the appeal.

**87. Notice of hearing to be given** --Notice of the date and place fixed for the hearing of the appeal shall be given to the appellant in such manner as the Court may direct, and to every other party to the case whose interest is opposed to that of the appellant in the manner hereinafter prescribed.

**88. Contents of notice** --A written notice containing the title of the Court, the names of the parties, the date and place fixed for the hearing of the appeal and such other particulars as the Court may, by general or special order, direct, shall be issued in duplicate under the hand and seal of the Court.

**89. Mode of service** --The notice shall be served by delivering one copy thereof, if practicable, to the person addressed therein, or, in his absence, to some adult male member of his family, or if none such be found, by leaving such copy at the addressee's usual place of residence. Provided that, if the Court shall so direct, the notice may be served under registered cover sent through the Post Office.

**90. Acknowledgment of personal service** --When personal service is effected, the addressee shall be required to acknowledge the service by affixing his signature, seal, or mark on the back of the duplicate copy to be retained by the serving officer.

**91. Memorandum by serving officer** --The serving officer shall in every case endorse on the duplicate copy a memorandum signed by him of the date and mode of service, and return such copy to the Court which issued it.

**92. Cost of service** --The cost of serving any notice shall be borne in the first instance by the party appellant, and shall be paid to the proper officer of the Court before such notice is issued. The charge made for service shall be in accordance with the lowest civil process scale for the time being in force.

**93. Hearing may be postponed or adjourned** --The hearing of an appeal may be postponed or adjourned from time to time, as the Court may see fit by written order to direct, to any subsequent date, and notice of such date shall be given to the parties in such manner as the Court may direct.

**94. Attendance or representation of parties not essential** --The attendance of the parties in person or by representative, shall not be necessary at the hearing of any petition of appeal, or of any appeal, but any party so attending shall be entitled to be heard.

**95. Court to be satisfied before hearing that notice has been received by parties** --The Court shall not proceed to the hearing of any appeal unless and until it is satisfied that notice of the date and place fixed for such hearing has been received by the parties concerned in sufficient time to permit them to appear or to be represented at such hearing. Provided that the Court may presume that notice has been received when a written notice has been served in any of the ways described in Rule 89 above. Provided also that an appeal may be heard and decided, notwithstanding the absence of any party who is shown to the satisfaction of the Court to be wilfully evading service of notice.

**96. Procedure on hearing** --(a) The Court, before passing its order or decision on the appeal, shall record in writing which (if any) of the parties to the appeal are present, in person or by representative, at the hearing thereof.

**What parties present.**

(b). The Court, if it think further inquiry necessary, may conduct such inquiry itself, and in such case shall be deemed to be an officer with the powers described in Section 69 of the Act.

Further inquiry by appellate Court.

(c). When the hearing of the appeal is concluded, the decision or order of the Court shall, when practicable, be pronounced forthwith, and shall be recorded in writing signed by the Court, and the substance thereof shall be explained to such of the parties or their representatives as are present when the decision or order is passed or given.

The decision or order of Court

(d). Every decision or order recorded in English shall be translated into Urdu, and the translation thereof shall be authenticated by the signature of the Court and filed with the proceedings.

97 *Copy thereof to be sent to Subordinate Officer*—A copy of the decision or order shall be transmitted by the Court to the Officer from whose decision or order the appeal was preferred.

98 *Copies to be granted to parties*—A copy of the decision or order of the Court, in English or Urdu, shall be granted to any person concerned or interested therein, who shall apply for the same, upon payment of the proper Court fees and copying charges.

99. *Of re-hearing in certain events*—If any party against whom an order or decision is made or given upon an appeal heard in his absence shall, within thirty days from the date of such order or decision, satisfy the Court that he had received no notice of the time and place fixed for the hearing thereof, or had not received such notice in sufficient time to permit him to appear and that he did not wilfully evade service thereof, the Court may pass an order, if it think such order requisite for the ends of justice (and not otherwise) upon such terms as appear just, setting aside its previous decision or order and grant a re-hearing, which shall be subject to the same rules as the hearing of an appeal.

100 *Power of revision by Financial Commissioner and Chief Engineer*—The Financial Commissioner may at any time call for any case which has come before a Commissioner otherwise than under Section 19 of the Act, or before a Deputy Commissioner, and the Chief Engineer may at any time call for any case which has come before a Superintending or Divisional Canal Officer, and pass such orders thereon consistent with the Act and the rules made thereunder as may seem proper.

101 *Power of revision by Local Government*—Orders passed by the Financial Commissioner shall be subject to review by the Local Government in the Revenue Department, and orders passed by the Chief Engineer to review by the Local Government in the Irrigation Branch, Public Works Department.

102 *Finality of orders and decisions of Appellate Court*—Except as provided in the three last preceding rules, or as may be otherwise expressly provided in the rules for the time being in force, the order or decision passed upon any appeal shall be final.

103. *Scope of Rules*—Nothing contained in the foregoing rules applies to the hearing of an appeal from any decision or order in a criminal case under the Act.

104 *Procedure upon reference under section 27*—Upon a reference to the Commissioner under Section 27 of the Act the procedure shall, so far as may be, be the same as is prescribed in Rule 2 upon a reference under Section 20 of the Act.

105 Except as provided in Rule 2 and in the last preceding rule, no person shall be entitled to be heard in person or by representative before the Superintending Canal Officer, Commissioner or other higher authority to whom, under the provisions of the Act or the foregoing rules, any matters submitted or referred for sanction, approval, or decision. Nothing in this rule shall preclude the persons concerned from submitting for the consideration of any such officer or authority petitions relating to any matter so submitted or referred.

#### APPENDIX I.

APPLICATION FOR WATER-COURSE FROM CANAL, VILLAGE  
PARGANNA, DISTRICT  
1 of CROP OF 18 .

1. Name of applicant.
2. Name of supply-channel
3. Proposed site of new outlet.
4. Approximate area of land to be irrigated
5. Number of pipes required
6. Irrigation by overflow or lift
7. Approximate length of water-course
8. Names of owners of lands to be traversed by water course.

9. Land irrigable from any existing outlet or not.
  10. Number and names of intending shareholders (if any) in the outlet applied for.
  11. Number of outlets now in supply-channel { Right bank.  
Left bank.
  12. Width of bank, including slope and pathway.
  13. Number of outlets now allotted to village.
  14. Culturable area { Whole village.  
Applicant's lands.
  15. Area already provided with irrigation { In village.  
In applicant's holding.
- N B —Columns 11—15 to be filled in in Canal Office

## APPENDIX II

License for Ferry Boat

Canal.

Position of ferry

Dimensions of boat or raft.

Name of person to whom license is granted

Period for which license is granted.

Tolls leviable at ferry

## CONDITIONS

This license may be revoked without any compensation thereby becoming claimable by the licenser if tolls be levied in excess of those specified above, or if the boat be not maintained in proper working condition, or if delays or obstructions to travellers occur, or for other fault which in the judgment of the Divisional Canal Officer demands it. Appeals against the orders of the Divisional Canal Officer shall lie to the Superintending Canal Officer

(Sd) A. B.,

Station and date }  
}

Executive Engineer,

Division

Canal.

## APPENDIX III.

No.

TRAFFIC DEPARTMENT.

CANAL

PASS TICKET

18

Boat No.

Date of entry.

Owner's name.

Occupation.

Residence or place of business

Name of person in charge

Measurement of boat.

Estimated carrying capacity

maunds.

Tolls paid from 18 to 18

Amount Rs Annas Pies

By whom issued.

Date of leaving Canal

Navigation

Station.

I hereby certify that all demands against Boat No.  
damage to canal works, &c., &c., up to date, have been satisfied.

for tolls, right of way,

Navigation Agent.

## APPENDIX IV.

No.

TRAFFIC DEPARTMENT,

CANAL.

Received from

18 .

Rupees

Annas

Pies

being amount of toll on boat No.

From

To

Rs.

Navigation Department

Canal,

In Charge of

Station.



## APPENDIX V.

No. **TRAFFIC DEPARTMENT,** **CANAL.**  
**PASS FOR BOAT No.**

Station, dated

18 .

1. Date of departure.
2. Name and address of owner of boat
3. Name and address of owner of cargo
4. Description of cargo
4. Weight of cargo in maunds (Government).
6. Place of departure on canal
7. Destination of canal
8. Ultimate destination
9. Distance by canal
10. Rate of freight.
11. Amount of freight
12. Value of cargo
13. Number of passengers
14. Remarks

Signature of Navigation Agent.

## APPENDIX VI

No. **TRAFFIC DEPARTMENT** **CANAL**  
**RAFTING PASS** 18 .

FROM To  
Distance miles  
Description of rafts  
Dimensions  
Cubic contents  
Rate of Tolls, Rs  
Amount paid, Rs.  
Estimated value of rafts, Rs  
Name of owner  
Residence  
Name of person in charge  
Date of entering Canal

(Signature.)

Rs. Canal

RECEIVED AT

Station

of

18

Navigation Agent.

## APPENDIX VII

Statement of Land irrigated by in mouza Parjana Zilla  
during Fasl 18 .

Date of giving purcha.	NUMBER OF FIELD.		AREA AND NATURE OF IRRIGATION		Name of crop	Demand	REMARKS
	Kha-taoni.	Settle-ment	Flow	Lift			
							Enter particulars of cultivator's parentage, caste &c, where confusion is likely to arise from men having the same names, or explanatory details regarding irrigation.

(Punjab Government Notification No. 3725 I, dated 17th August 1878—Punjab Gazette of 29th idem).

The above rules have been re-published and declared applicable to the Sirhind Canal and its branches, (Punjab Government Notification No 2359 I dated 13th April 1883, Punjab Gazette of 26th idem) :—to the Swat River Canal (No. 400 I, dated 1st February 1887, Punjab Gazette of 3rd March 1887, Part I, page 86), and also to the Chenab Canal (No. 5796 dated 22nd December 1887, Punjab Gazette of 29th idem, Part I, page 656).

(i).—In exercise of the powers conferred by Section 75 of the Northern India Canal and Drainage Act (Act VIII. of 1873), the Hon'ble the Lieutenant-Governor of the Punjab is pleased, with the sanction of the Governor-General in Council, to make the following rules, and to declare them applicable to the portion of the Agra Canal situated in the Delhi and Gurgaon Districts of the Punjab :—

Punjab Government, Public Works Department, Irrigation Branch Notifications

No 560 I., of 5th February 1875,

No 4059 I., } of 17th September 1875,  
No 4060 I., }

No 1782 I., of 18th April 1877,

are hereby cancelled.

## RULES ISSUED UNDER ACT VIII OF 1873

### PART III—ON CONSTRUCTION AND MAINTENANCE OF WORKS

#### *Grounds of refusal to grant water*

1 *For apprehended wastage*—Applications under Section 16 of the said Act shall not be granted to lands where, in the opinion of the Divisional Canal Officer, serious loss from wastage is likely to occur—

(a)—Such application shall not ordinarily be granted in respect of land where, in the opinion of the Divisional Canal Officer, reasonable grounds exist for believing that canal irrigation will raise spring-level to a height likely to prove injurious to health or agriculture

(b)—Such applications shall not ordinarily be granted in respect of lands where the available supply of water in the canal distributary or water-course is already fully utilised

2 *Limit of length of water-courses*—Such application shall not ordinarily be granted in respect of lands where the length of the water-course from its head to its point of contact with such lands does or would exceed one mile

#### *Construction of water-courses*

3 *Orders for construction of masonry works*—The order which a Divisional Canal Officer may issue under Section 18 of the said Act shall be in writing, and shall be served on each person concerned

4 *Proceedings of Superintending Canal Officer*.—The Superintending Canal Officer, before confirming or modifying a decision of the Divisional Canal Officer under Section 20 of the said Act, shall fix a day for hearing inform the parties concerned, and hear and record any objections made by any of them who appear on such day

5 All applications for water to be supplied for irrigation through an existing channel, or through a channel to be constructed by the applicant, shall be made as nearly as may be in the form prescribed in Appendix I

6 *Proceedings of Deputy Commissioner*.—The Deputy Commissioner shall give not less than fourteen days' notice to the Divisional Canal Officer under Section 24 of the said Act.

7. *Opening of new water-courses*—Water shall not be admitted into any new water-course until all works have been constructed which are necessary for the passage across such water-course or water-courses existing previous to its construction, and of the drainage intercepted by it, and for affording proper communication across it for the convenience of the neighbouring lands and of the public.

### PART IV.—ON THE SUPPLY OF WATER.

#### *Supply of water for other purposes than irrigation*

8 *Filling of tanks for watering cattle*.—Tanks may be filled with canal water without charge and without reference to the area irrigated in any village, whenever water can be made available without injury to the cultivation dependent on any canal, subject to the following regulations :—

I.—No tank shall be so filled unless exclusively used for domestic purposes or for watering cattle.

II.—No tank shall be so filled which, intercepting any line of drainage, is liable to overflow from accumulation of water from natural causes.

III.—No tank shall be so filled except on the written order of the Sub-divisional Canal Officer, issued on the written applications of the parties concerned at such times and to such extent as the Sub-divisional Canal Officer approves.

IV.—No tank shall be so filled unless the water-course used to fill it shall be shown to the satisfaction of the Sub-divisional Officer to be in a sound condition when the application is made.

V.—In the event of any breach of the foregoing regulations by any person for whose benefit the tank has been so filled, or of any such person using any tank so filled otherwise than for domestic purposes or for watering cattle, the privilege, by this rule afforded, may, in addition to any penalty which may be incurred under the Act, be suspended for 12 months, by order of the Divisional Officer passed on a regular proceeding and inquiry in each case.

VI.—Any person irrigating without authority from tanks, jhils, or other receptacles filled with canal water, is using the water in an unauthorized manner, and will be dealt with according to the provisions of Section 33 and clause IV. of Section 70 of the Act.

9. *Contracts for water for other than irrigation purposes.*—The Superintending Canal Officer is empowered to sanction contracts made by the Divisional Canal Officer for the supply of canal water for purposes other than those hereinbefore mentioned for any term not exceeding one year. For terms exceeding one year the sanction of the Local Government shall be necessary.

10. *Charges for water used for other than irrigation purposes*—Tanks may be filled (or water may be supplied direct in small quantities) for purposes other than those stated in clause 1 of rule 8 with canal water, which will be charged for at such rates and subject to such conditions as the Local Government may from time to time by rule determine. For rates in force, see Appendix II

11. *Water supplied to cantonments, towns, &c.*—When water is supplied to forts or other military buildings, cantonments, civil stations, cities, railways, public gardens, or other places of public resort, either by filling of tanks or by direct flow, contracts at special rates may be made by the Superintending Canal Officer with the sanction of the Local Government.

12. *Water-power.*—The use of water-power may be granted by the Divisional Canal Officer at such rates and under such conditions as the Local Government may from time to time by rule determine.

#### *Distribution and stoppage of supply.*

13. *Preparation of fields*—A Divisional Canal Officer may withhold or postpone the issue of water to any cultivator whose fields may have been ascertained by personal inspection (of himself or of one of his assistants, or of the Canal Deputy Magistrate) to be unprepared for irrigation by division into *khyaris* or compartments, not greater in area than eight hundred square feet, and by the addition of small water-channels, such as are used in irrigation from wells—

(a) When a field is irrigated, which has not been so prepared, an additional charge may be imposed, equal to half the amount of water-rate leviable on the field. This additional charge will be separately recorded in the "Khatiauni" and will be collected with the water-rate.

(b) Rice fields and gardens are exempted from the operation of this rule.

(c) In each case the Divisional or Sub-divisional Canal Officer, or Canal Deputy Magistrate, must certify that he personally examined the field, and that it was not properly prepared for irrigation according to the terms of this rule.

14. *Tatils.*—Divisional Canal Officers are empowered, for purposes of administration, repairs and maintenance, to order the closure of any water-course, for periods which shall not extend beyond twelve consecutive days. For longer closures the authority of the Superintending Canal Officer is required.

Orders for closures under this rule must be notified—

(a) By a notification under the hand of the Divisional Canal Officer, a copy of which shall be conveyed by the Canal establishment, with due expedition, to each village concerned, and delivered to the patwari, or, in his absence, to any lambardar. The acknowledgment of each person to whom a copy of the notification is delivered shall be affixed to a schedule prepared for the purpose, which shall be recorded in the Divisional Canal Office; or

(b) In the form of special orders issued upon particular occasions.

Orders of the latter description shall be in writing, under the hand of the Divisional Canal Officer.

It shall be the duty of the patwari or lambardar who receives the notification above described to affix it at once in a conspicuous position in the village, and to make its purport generally known.

15 *Stoppage of supply in improperly maintained water-courses*—Stoppage of supply of water to any water-course under clause (a) (2), Section 32 of the said Act, may be enforced when the Canal Officer recommending such stoppage has satisfied himself, by personal inspection, that the water-course is not maintained in proper repair, as contemplated in the said clause (a) (2). The order for such stoppage shall be in writing, under the hand of the Divisional Canal Officer. Immediate report shall be made to the Superintending Canal Officer and to the Deputy Commissioner when the duration of such stoppage is likely to extend to a period of ten days or more, the special grounds for stoppage being explained in each case. The Superintending Canal Officer's order thereon shall be final.

15A. *Stoppage of supply not to be resorted to as a punitive measure.*—Under no circumstances should stoppage of water-supply be resorted to as a punitive measure. Such a measure is virtually prohibited by law, inasmuch as it is not included in any of the cases in which stoppage is directly authorised; but attention cannot be too prominently drawn to its illegality. The general power of directing stoppage of water-supply is reserved, under the Act, to Divisional Canal Officers; but it rests with the Sub-divisional Officer to authorise temporary stoppage in cases of "pressing emergency." When a Sub-divisional Officer has occasion to act upon this authority, he shall at once report the fact to his departmental superior, giving his reasons in full for the action thus taken.

16. *Power of Canal Officer in cases of emergency*—Nothing in the foregoing rules shall be taken to affect the power of the Canal Officer to close any water-course or stop any supply of water on his own authority in cases of pressing emergency.

17 *Claims for remission*—Claims under clause (b), Section 32 of the said Act, to remission of the occupier's rate, shall be admitted only on proof of actual loss caused by the stoppage of supply; on proof of such loss the whole or any portion of the charges may be remitted as hereinafter provided.

All claims to such remission shall be made to the Divisional Canal Officer previous to the cutting of the crop. The Divisional Canal Officer may reject or admit any claim. If the claim be admitted, the Divisional Canal Officer may remit, or, where collection has been already made, direct refund to the extent of Rs. 50 on each of the *parchas* mentioned in rule 65: provided that the aggregate remissions for any one village do not exceed Rs. 200. If the Divisional Canal Officer considers that higher remissions should be granted than those above specified, report shall be made, through the Superintending Canal Officer, for the decision of Government. Pending the decision, collection shall be suspended.

18. *Compensation*—Before awarding compensation under clause (c) Section 32 of the said Act, the Deputy Commissioner shall obtain the written opinion of the Divisional Canal Officer.

## PART V — OF WATER-RATES

### Occupier's Rate

19 *Assessment of occupier's rate*—Occupier's rate shall be assessed by the Divisional Canal Officer on the area irrigated at the rates prescribed in the rules made by the Local Government under Section 36 of the said Act, and subject to the following rules. (For rates in force see Appendix III).

20 *Charges leviable for partial irrigation and for the irrigation of mixed crops*—When a field receives the first, or *pallo*, watering, and afterwards no crop is sown, the lowest rate of charge for "lift" or "flow" as the case may be, shall be imposed. One watering after the crop has been sown shall be charged for at the rate leviable for the whole crop. If mixed crops be grown in the same field the occupier's rate shall be calculated on the highest rated crop. If different crops be grown in different parts of the same field, the occupier's rate for the whole shall be calculated on the highest rated crop, unless the division between the crops shall have been clearly defined by a ridge not less than half a foot high.

21. *Charge leviable on fields re-sown.*—When the original crop sown in a canal irrigated field fails and is ploughed up, and a fresh crop sown in the same season, the occupier's rate to be levied shall be that due on the crop which comes to maturity.

22. *Occupier's rate for fields partly irrigated*—If only a portion of a field be irrigated, the occupier's rate shall be chargeable on the whole field unless such portion shall have been clearly demarcated by a ridge not less than half a foot high.

23. *Charge leviable on fields partly irrigated from canals, partly from wells, or other sources*—When a portion of a field has been irrigated with canal water, and a portion with water from a well or any other source, the whole field is liable for canal occupier's rate, unless a clearly distinguishable boundary, demarcated by a ridge not less than half a foot high, exists between the two portions. Inquiry shall be made whether the use of water from a well

or any other source was in consequence of a deficiency in the supply of canal water, and if it be proved that it was so, the rate charged for canal water shall not exceed "lift" rates.

24. *Use of canal water-courses for conveyance of water from a well or any other source*—If water from a well or any other source is conveyed in the same channel as canal water in the course of the same season, the whole of the irrigation from that channel during such season is liable to be treated as irrigation from the canal.

25. *Charge leviable for permanent irrigation from escapes*—Irrigation from escape channels, when the supply is permanent, shall be governed by the same rules as irrigation from other parts of the canal.

26. *Charge leviable for intermittent irrigation from escapes*—Irrigation from such channels, when the supply is intermittent, may be allowed at such reduced rates as shall from time to time be fixed by the Local Government.

27. *Charge leviable for waste*—The charge leviable for water used in an unauthorised manner, or suffered to run to waste, may, when the land flooded is uncultivated, be calculated on the area flooded at the highest rate prescribed in the rules made by the Local Government under Section 36 of the said Act; and when the land is cultivated, at double the rates so prescribed for the class of crops grown on it: provided that in every such case the Divisional Canal Officer may impose a lower charge if he think fit.

28. *Schedules of rates to be accessible to villagers*—The patwari of every village irrigated by canals shall be furnished by the Divisional Canal Officer with a statement in Hindi, or the current written language of the district, showing the rates of assessment of each class of produce according to the ordinary local and canal standards of measurements, which statement shall be suspended in the *chaupul* or other place of public resort in the village.

## PART VI

### Navigation

29. *Tolls*—When a canal shall have been declared by the Local Government open for navigation, tolls and charges on boats and rafts plying thereon shall be levied under such regulations as to variation of burden or burden, and at such rates as shall from time to time be determined by the Local Government with the approval of the Government of India; and such regulations and rates shall be notified in the *Government Gazette*. (For rates in force see Appendix IV)

30. *Ferries*—Ferry boats shall not be permitted to ply on a canal except under a written license, in the form contained in Appendix V, from the Divisional Canal Officer, and subject to conditions therein laid down.

31. *Measurement*—Every boat or raft entering a canal shall be liable to measurement, for the purpose of ascertaining the amount of toll such boat or raft shall pay, according to the rates determined as prescribed in rule 29.

32. *Number*—The traffic manager or person duly authorised in his behalf shall assign to every boat, at the time of first measurement, a serial No. by which it shall be distinguished while plying on the canal. The No. shall be marked on the port or lefthand bow of the boat, and shall not be less than eight inches in height, and shall be of such a colour as to be easily distinguishable at a distance of one hundred yards.

33. *Ticket*—Every boat on entering a canal shall be furnished by the traffic manager, or person duly authorised in his behalf, with a ticket in the form contained in Appendix VI., which shall specify the number of the boat, the date on which it entered the canal, the name, occupation, and place of abode of its owner, and the name of the person in charge of the boat for the time being. The traffic manager or person duly authorised in his behalf shall, before the boat leaves the canal, return the ticket to the person for the time being in charge, after entering thereon the date of leaving.

34. *Dimensions*—No boat above fourteen feet beam over all shall be allowed in a canal on which the locks are sixteen feet in width, and no boat above eighteen feet beam over all in a canal on which the locks are twenty feet in width. No raft of more than fourteen feet in width and ninety feet in length shall be allowed on any canal the locks of which are sixteen feet in width; and no raft of more than eighteen feet in width and one hundred feet in length shall be allowed in a canal the locks of which are twenty feet in width.

35. *Tolls payable in advance*—Tolls on boats shall be paid in advance and no boat shall be allowed to leave any canal on which it is plying until all such tolls have been paid. The traffic manager or person duly authorised in his behalf, on granting permission for the removal of the boat, shall sign the certificate at the foot of the ticket given under rule 33, after satisfying himself that all claims against the boat have been paid.

36. *Special rule for the Agra Canal*—Canal dues shall be paid on or before the last day of each quarter, except in the case of a boat leaving the canal, for which, before it leaves, payment shall be made for the number of days due, as shown by the ticket granted under rule 33.

37 *Receipt for tolls.*—Tolls shall be paid to the traffic manager, or person duly authorised in his behalf, at any of the toll stations, and a receipt in the form contained in Appendix VII shall be granted for the same.

38 *Pass for boats.*—Upon any boat plying on a canal, being loaded wholly or in part, the owner or other person in charge shall declare to the traffic manager, or person duly authorised in his behalf, at the place of loading (or, in the absence of the traffic manager, or such authorised person, at the place of loading, at the first station he may pass), an invoice of the cargo there taken in, showing its nature, weight, value and destination. The traffic manager, or person duly authorised in his behalf, shall thereupon furnish the owner or person in charge with a pass in the form contained in Appendix VIII, specifying the foregoing particulars, which pass shall be delivered to the person authorised to receive the same at the station nearest to the place at which the boat is unloaded.

39 *Pass to be shown when required.*—The person in charge of a boat shall show the pass granted under rule 38 whenever he is required to do so by the traffic manager or any person authorised by the Local Government in his behalf.

40 *Every boat or raft to be navigated by two persons.*—No boat or raft shall be navigated by less than two persons.

41 *Pass for rafts.*—Passes in the form shown in Appendix IX. shall be granted to persons wishing to float rafts down a canal upon application to the traffic manager, or person authorised by the Local Government, at the nearest station. No raft unprovided with a pass shall enter a canal.

42 *Removal of rafts from canal.*—On reaching the destination specified in the pass, the person in charge of a raft shall, within twenty-four hours, deliver the said pass to the traffic manager, or person authorised by the Local Government in his behalf, who, if all charges due under these rules have been paid, shall authorise the removal of the raft, which shall be effected within forty-eight hours from the time of permission being granted, unless written authority to defer removal be given by the traffic manager or such authorised person.

43 *Divisional Canal Officer empowered to remove rafts.*—Rafts not removed within the time required by rule 42, and rafts found unattended, may be taken out of the water by the Divisional Canal Officer or any person duly authorised in his behalf.

44 *Rafts without passes.*—Any raft found in a canal unprotected by a pass may be charged with double toll, reckoned on the distance from the head of the canal to the place where such raft shall be removed from the canal.

45 *Double rates to be charged for excess over quantity shown in pass.*—Double rates shall be leviable on all articles in excess of the quantity of each kind specified in the pass granted under rule 41.

46 *Removal of rafts lodging against canal works.*—Every person floating a raft in a canal shall so navigate it that it shall not lodge against any canal works; and if any raft so lodges or causes obstruction, it shall at once be broken up and removed by any Canal Officer on the spot.

47 *Rafts liable to detention.*—All rafts, subject to demands under Sections 51 and 52 of the said Act, shall be liable to detention until such demands are paid. If payment be not made within fourteen days of such detention, the Divisional Canal Officer may proceed to put in force the provisions of Part VI of the said Act for the recovery of such demand.

48 *Masts.*—Boats shall have their masts fitted so that they can be let down with ease and speed; and no mast shall be so fitted as, when so let down, to strike or scrape any bridge under which the boat may pass.

49 *Boats and rafts to be fastened fore and aft.*—Every boat or raft which is brought alongside of a canal bank or wharf must be securely fastened fore and aft to such bank or wharf: no boat or raft shall be brought up outside another so moored without the permission of the Divisional Canal Officer or some person authorised by him in this behalf.

50 *Boats and rafts to be moored so as not to obstruct traffic.*—No boat or raft shall be placed in such a position as to endanger the safety of other boats or rafts or to obstruct their passage, or to impede navigation; and no bamboos or poles shall be erected on vessels moored to the bank.

51 *Every boat or raft when brought to to have some one on board.*—Whenever a boat or raft is brought to, some person shall remain in attendance on board.

52 *Wrecks.*—When any boat or raft is wholly or partially sunken or disabled in any canal, the owner or other person in charge of such boat or raft shall remove the same without delay. Should the owner or the person in charge not be forthcoming, or should he refuse to remove the boat or raft, or should he not use reasonable expedition in removing the boat or raft, then the Divisional Canal Officer or other person duly authorised in this behalf may undertake the removal under Section 49 of the Act.

53. *Banks or berms not to be used as wharves.*—The banks or berms of the canal shall not be used as wharves for the deposit of goods, except with the permission of the Divisional Canal Officer or some person authorised in this behalf; any person violating this rule shall be liable to a penalty.

54. *Goods to be removed from canal lands.*—All goods shall be removed from canal lands within seven days, unless the written permission of the Divisional or Sub-divisional Canal Officer be obtained to their remaining longer. All goods deposited on canal lands must be properly stacked, and so placed as not to interfere with other traffic. In the event of such goods not being removed when required, a daily charge of four annas per hundred maunds shall be levied as a demurrage, when the goods are susceptible of being reckoned by weight; and a reasonable charge shall be determined by such Canal Officer when the goods are reckoned by number. This rule does not apply to canal ware-houses, for which special rules will be framed by the Local Government.

55. *Boats or rafts liable to be examined.*—Any boat or raft plying on a canal may be examined by any Canal Officer of rank not inferior to a Sub-divisional Officer, or by the traffic manager or other person duly authorised in this behalf, provided that there is reason to believe that the owner or person in charge thereof is attempting to violate any rules under this part.

56. *Canal closures.*—No claim for compensation to any owner or person in charge of any boat or raft navigating the canal shall be created by unavoidable detention resulting from the closure of the canal, or from the depth of water being at any time unavoidably reduced, or from the failure of any weir, lock, bridge, or other work in the canal-bed.

57. *Vessels, &c., abandoned.*—If any vessel be found abandoned in a canal, or any cargo or goods carried in a Government vessel on a canal, or stored on or in lands or ware-houses occupied for the purpose of a canal, be left unclaimed for a period of two months, the traffic manager shall request the Divisional Canal Officer to take possession of the same and shall furnish a schedule (Appendix X) giving particulars of the vessel, cargo or goods. The officer so taking possession shall publish a notice, Appendix XI, in the *Government Gazette* and if the vessel and its contents, or cargo or goods referred to in the notice, are not claimed within 30 days from the date of the notice, shall direct the property to be sold. On receipt of the proceeds of sale, the Divisional Canal Officer shall credit the amount of charges due to the traffic manager, if the net amount realized exceeds the amount of charges; and shall pay the balance to the owner of the boat or its contents, or of the cargo, or goods, so soon as the ownership is established to the satisfaction of the Canal Officer; or to the district treasury if no ownership is established to the Divisional Canal Officer's satisfaction, within the period of one month from the date of sale. If the net proceeds of the sale are less than the amount of charges due, the whole net proceeds shall be credited to the traffic manager.

#### PART X.—OF OFFENCES AND PENALTIES

58. *Offences.*—Offences under Section 70 of the Act shall be cognizable by a Magistrate of the first or second class

Section 70.

59. *Canal Officers exercising judicial powers.*—The following instructions are laid down for the guidance of Canal Officers exercising judicial powers:—

I.—No Canal Officer will, under any circumstances, be invested with Magisterial powers until he has passed the departmental examination in canal law

II.—The practice and procedure of Canal Officers exercising judicial powers are governed in all respects by the provisions of the Code of Criminal Procedure, and every offence must be tried in the district in which it was committed.

III.—No punishment can be inflicted by Canal Magistrates for offences not cognizable under the Act, such as attempting to defraud Government in pecuniary matters, making false reports, &c

IV.—Warrants issued by Canal Magistrates must be directed to the police only.

V.—In the exercise of their judicial functions, Canal Officers are entirely subordinate to the Magistrate of the district within whose jurisdiction any alleged offence was committed. To the Magistrate of the district—and to him alone—all appeals from such decisions lie

VI.—Canal Officers, exercising judicial powers, will forward monthly an abstract of all cases decided (in the form giving in Appendix XII) to the Magistrate of the district concerned. The attention of Magistrates is invited to the revisional powers vested in them under the law, in virtue of which they may call for and examine the record of any cases decided by Subordinate Magistrates; and the Lieutenant-Governor desires that this revisional jurisdiction be constantly kept in view, and acted upon at discretion. The Judicial work performed by Canal Officers should be detailed—and commented on when necessary—in the annual District Report.

60. *Damage to canal under Section 70 defined*—The following interpretation of the clauses of Section 70 is laid down for the guidance of Canal Officers :—

Section 70.

*Clause I (a) —Whoever damages any canal or drainage work,*

The following are held to be offences under this clause:—

1. *Damage to canal, which includes —*

Cutting banks of canal ;

Ditto rajbaha ;

Ditto water-course ;

Ditto escape ;

Ditto navigation channel ;

Ditto mill channel ;

Ditto drainage cut—

or obliteration of lockspit.

2. *Damage to land*, which includes excavating earth or digging grass or plants from canal lands ; planting trees or sowing crops without permission on canal lands.

3. *Damage to buildings*, which includes masonry works of all kinds, and all the several parts of them, whether on canal, rajbaha, water-course, escape, navigation channel, or mill channel, or drainage work.

4. *Damage to machinery*, which includes all regulating apparatus, such as windlasses, chains, gates, sleepers and planks ;

All bridge-lifting apparatus ;

All lock apparatus ;

All mill machinery

5. *Damage to fences*, which include fences of all kinds situate on canal lands.

6. *Damage to gates.*

7. *Damage to other erections*, as temporary falls, bridges, &c., temporary head bunds and spurs ;

Stakes, spurs and cribwork for protection of banks and bed, &c;

Milestones which are not also bench-marks ; or any distance marks on canal lands.

8. *Damage to plants*, which include plantations, trees, crops, grass, seeds or other produce

*Clause I (b).—Whoever alters or enlarges any canal or drainage work,*  
includes altering or enlarging the channel of any rajbaha, water-course, escape, or drainage cut.

(c).—*Whoever obstructs any canal or drainage work*, includes —

(1) placing bunds and obstructions of any description in any canal, channel, or drainage course maintained or controlled by Government for the supply or passage of water ;

(2) or in any part of any river, stream, lake, or natural collection of water, or natural drainage channel which has been notified by Government under Section 5 of this Act ;

(3) or any water-course, without the consent of the person or persons using the water-course, or (in respect of orders passed under Section 68) of the Subdivisional Officer.

*Clause II (a).—Whoever interferes with the supply of water in any canal or drainage work*  
includes—

Putting planks or sleepers in a fall or taking them out, without permission ;

Opening or closing sluice-gates without permission or at unauthorised times ;

Interfering in any manner with the regulation of drainage inlets ;

Interfering with the regulation of torrents crossing the canal, whether on or above

or below its level.

(b) —*Whoever increases or diminishes the supply, &c., includes —*

Increasing or diminishing the supply of water in regulating head works, whether of canal, branch canal, escape, rajbaha, or mill stream ;

Opening water-course heads (colabas) during closed time or "tatil;"

A.—Closing a colaba used by another person



*Clause III.—Whoever interferes with or alters the flow of water in any river or stream, includes—*

Damage to torrent training works of all descriptions, such as—

Removing piles and trees from spurs, or nails or timber from crib-boxes, &c.,

*Clause IV.—Whoever, being responsible for the maintenance of a water-course, or using it neglects precautions for preventing the waste of water, or interferes with the authorised distribution of the water, or uses the water in an unauthorised manner, includes—*

Wasting water ;

Interfering with the established distribution of the water amongst the several shareholders of the water-course.

[*N. B.*—in such a case the Canal Officer cannot prosecute]

Filling tanks without permission.

*Clause V.—Whoever corrupts or fouls the water of any canal so as to render it less fit for its ordinary use.*

Throwing dead bodies or hemp or rubbish of any kind into, and steeping hemp in, any canal channel.

*Clauses VII, VIII and IX.*—Offences under these clauses appear to require no further definition.

*Clause X.—Whoever destroys or removes any level mark or water-gauge fixed by the authority of a public servant, includes—*

Damaging bench-marks ;

Removing levelling pegs ;

Damaging or moving gauges.

The foregoing classification and definition of offences that can be brought, under Section 70 of Act VIII of 1873 is not exclusive ; but other offences, and even other classes of offences will probably develop themselves from time to time.

#### PART XI.—SUBSIDIARY RULES.

##### *Regarding the collection of occupier's rate*

61. *Notice of measurements to be sent to Tahsildars.*—Canal zillahdars shall give seven days' notice in writing to tahsildars of date of commencement of measurements in every village, by furnishing, at the end of each week, a statement of the villages which it is intended to measure in the week after the next.

62. *Tahsildars responsible for attendance of putwaris.*—Tahsildars, on receipt of notice, will be responsible for the attendance of putwaris during the time of measurement of each village.

63. *Preparation of khatiauni.*—On the completion of measurements of a village, the amin, before leaving it, shall prepare from the khasra a khatiauni, in which all the entries concerning each cultivator will be brought together and totalled. A copy of the khatiauni will be forthwith prepared by the patwari (in forms to be furnished by the Canal Officer) in the current written language, and signed by the amin.

64. *Khatiauni to be accessible to cultivators.*—The patwari shall be responsible for the village copy of the khatiauni being at all times accessible to any person who pays water rate.

65. *Distribution of parchas.*—As soon as the khatiauni is completed, the amin shall tender to each cultivator a *parcha* or slip containing the particulars of rate due from him, with the date on which it was given noted on it. All *parchas* remaining unclaimed shall be left with the patwari of the village, or, in his absence, with the lambardar, for delivery to the cultivators concerned. The *parchas* shall be in the form detailed in Appendix XIII.

66. *Realization of occupier's rate.*—The Deputy Commissioner shall realize the rate assessed by the Divisional Canal Officer.

Section 45.

67. *Complaints against khasra entries.*—If a cultivator desires to contest the correctness of the entries made against him in the khatiauni whether as to the fact of the land having been irrigated, or of its being charged to "flow" or "lift," or as to the measurement and entries of class or crop, he must lodge a complaint with one of the following officers :—

Divisional Canal Officer,

Sub-divisional ditto,

Canal Deputy Magistrate,

Canal zillahdar.

within twenty-one days of the date of receiving the *parcha*, or (if he should not have received a *parcha*) within *twenty-one* days of the date on which he first became acquainted with the claim against him; and the complaint shall be investigated on the spot within fifteen days of its being lodged, and shall be promptly decided by one of the first three officers mentioned above.

On a complaint being presented to a *zilahdar*, he will immediately make local inquiry and will report the circumstances of the case to the Sub-divisional Officer for orders.

In respect of cases disposed of by the Sub-divisional Canal Officer or Canal Deputy Magistrate, an appeal shall lie within fifteen days to the Divisional Canal Officer, whose decision shall be final.

As great latitude as possible should be allowed in the interpretation of the rules limiting the time within which a complaint or appeal can be lodged. Where the complaint has been made so late as to preclude the possibility of a satisfactory investigation being made, the complainant must of course suffer for his own negligence; but all reasonable efforts should be made to get at the truth of a complaint before rejecting it.

68. *Disputed liability to assessment to occupier's rate.*—When the liability of assessment to occupier's rate is contested on the ground that the water for which the charge has been made was not derived from a canal, as defined in clause (1), Section 3, of the said Act, the complaint shall be investigated by the Divisional Canal Officer, who may decide in favour of the complainant; or if he do not consider such complaint valid, shall forward to the Deputy Commissioner a copy of the order he proposes to pass thereon.

If the Deputy Commissioner concurs in the first order, such order shall be final. If the Deputy Commissioner does not concur in the proposed order, an appeal shall lie to the Commissioner within sixty days from the date on which the Deputy Commissioner communicated to the Divisional Canal Officer his dissent from such order.

69. *Objections on behalf of cultivators.*—When a *lambardar* or other person is responsible, under Section 46 and 47 of the said Act, for the payment of the occupier's rates in a village, or any portion of a village, complaints under rules 67 and 68 may be lodged by such *lambardar* or other person instead of by the cultivators, and any refund that may be necessary in consequence of the order passed upon objection so lodged shall be paid to such *lambardar* or other person.

70. *Receipts.*—Receipts shall, when demanded, be given by the *lambardar* to each cultivator on payment of occupier's rate, and shall be countersigned by the *patwari*.

71. *Method of dealing with alterations in the demand.*—If, after the giving of the *parcha* any additions are made to the demand, or any reductions are allowed on complaint, under rule 67 or 68, or by way of remission, under Clause (b) Section 32, of the said Act, or otherwise, such additions or reductions shall be communicated to the cultivator by means of supplementary *parchas*. Demands shall be shown on slips printed in black, and remissions on red forms. All such alterations as are made before the despatch of the *khatiauni* to the Deputy Commissioner shall be shown in that document, and shall also be written on slips similarly printed (black for additions, and red for reductions), and attached to the *khatiauni*. Alterations made after the despatch of the *khatiauni* shall be communicated to the Deputy Commissioner by means of similar slips.

72. *Objections to the demand.*—Objections to the demand urged before the Deputy Commissioner shall be referred by him to the Divisional Canal Officer, the collection, except in the case provided for in rule 63, not being suspended unless the Divisional Canal Officer shall notify that an objection has been admitted.

73. *Remissions adjustable in Revenue Department.*—Balances irrecoverable owing to want of assets, absconding of defaulters, or any other such cause unconnected with canal management, and claims to refund on the ground of excess collection, shall be dealt with by the Deputy Commissioner, whose order thereon shall be final.

74. *Payment of refund.*—Payment of refunds, whether ordered by the Deputy Commissioner under rule 73, or directed by the Divisional Canal Officer or Government under rule 17, shall be made by the Deputy Commissioner, who will carefully note such payments as they are made in abstract B at foot of Canal Revenue Form No. VI., quoting proper authority in each case.

75. *Patwaris' fees.*—*Patwaris* will be paid at the rate of Re 1-4 for every 100 acres of land irrigated; this payment to be conditional on their affording satisfaction to the Divisional Canal Officer in respect to their duties in connection with the measurements and assessment, and to the Deputy Commissioner in respect to their duties connected with the collection of canal revenue.

76. *Lambardars' fees.*—The collection of the occupier's and owner's rates should be made with the utmost promptitude. The allowance to *lambardars* or other persons under engagement for the collection of the rates is Rs. 3-2 per cent, or 6 pies per rupee. It is payable on discharge in full of the amount of revenue due upon the *khatiaunis* entrusted to them within ten weeks of the receipt of the documents, or within ten days after the date on

which the land-revenue instalment falls due next following the date of receipt of the jamabandis, as lambardars may prefer. Deputy Commissioners should invariably note at the foot of part B of Canal Revenue Form VI, if any portion of the sums shown as payment to lambardars has been passed for revenue paid in after the prescribed date.

77. *Dates of submission of jamabandis*—For the kharif the jamabandis are to be submitted by Divisional Canal Officers not later than the 15th of October, and for rabi not later than the 15th of April.

#### APPEALS.

78. An appeal shall lie to the Divisional Canal Officer from any executive order passed by a Sub-divisional Canal Officer or Canal Magistrate.

79. An appeal shall lie to the Superintending Canal Officer from any order passed by the Divisional Canal Officer under rules 1, 2, 7 and 14, clause (b).

80. No appeal under rule 78 shall be brought after the expiration of fifteen days from the date of the order complained of.

No appeal under rule 79 shall be brought after the expiration of thirty days from the date of the order complained of.

81. In computing the period prescribed for an appeal under these rules, the day on which the order complained of was pronounced, and the time requisite for obtaining a copy of such order, shall be excluded.

82. Any appeal under these rules may be admitted after the period of limitation prescribed therefor, when the appellant satisfies the officer to whom he appeals that he had sufficient cause for not presenting the appeal within such period.

No appeal shall lie against an order under this rule admitting an appeal.

83. The Financial Commissioner may at any time call for any case which has come before a Commissioner or Deputy Commissioner; and the Local Government may at any time call for any case which has come before a Superintending or Divisional Canal Officer, and pass such orders thereon, consistent with the Act and the rules made thereunder, as may seem proper.

84. Orders passed by the Financial Commissioner shall be subject to review by the Local Government in the Revenue Department.

#### MISCELLANEOUS.

85. *Prohibition against passing on or across canal works.*—No person, without the permission, in writing, of the Sub-divisional Officer, shall pass, or shall cause any animal or vehicle to pass on, or across any of the works, banks, or channels of a canal, or drainage work, after he has been desired to desist therefrom excepting upon such bridges, fords, and ferries and their approaches, as are provided by the Divisional Canal Officer.

86. *General prohibition.*—No person employed on a canal shall, without previous sanction obtained from the Divisional Canal Officer, have any interest in the use or distribution of water from the said canal, or purchase, or bid, either in his own name or in the name of another or separately or in partnership with others, for any property sold by or on behalf of Government thereon.

87. No portion of—

(a) any additional charge imposed under rule 13 (a);

(b) any charge imposed on uncultivated land or of the amount by which the charges on cultivated land exceed the ordinary charge leviable on such land in the case of charges under rule 27,

shall be included in the occupier's rate for the purpose of assessing the owner's rate.

#### APPENDIX I.

*Application for water-course from canal, village*  
pargana district

FOR

CROP OF 18

1. Name of applicant.
2. Name of supply channel.
3. Proposed site of new outlet.

4. Approximate area of land to be irrigated.
  5. Number of pipes required.
  6. Irrigation by over-flow or lift.
  7. Approximate length of water-course.
  8. Names of owners of lands to be traversed by water course.
  9. Land irrigable from any existing outlet or not.
  10. Number and names of intending shareholders (if any) in the outlet applied for.
  11. Number of outlets now in supply channel
 

{	Right bank.
{	Left bank.
  12. Width of bank, including slope and pathway.
  13. Number of outlets now allotted to village.
  14. Culturable area ... ..
 

{	Whole village.
{	Applicant's lands.
  15. Area already provided with irrigation ..
 

{	Whole village.
{	In applicant's holding.
- N. B.—Columns 11 to 15 to be filled in, in Canal Office.

## APPENDIX II.

Section 31 of the Act. The following water rates will be levied in respect of canal water which has been passed into tanks by permission :—

(1) When the water, or part of it, is employed in irrigation, the water-rate levied will be the price of the whole of the canal water passed into the tank during the fall or season, at the rate of one rupee per 15,000 cubic feet per fall

(2) When water is used for any of the following purposes the water-rate will be levied by measurement of the produce, viz :—

(a)—On bricks moulded, at the rate of Rs. 5 per lakh of 9-inch bricks moulded ; and for other sizes in proportion.

(b)—On kutchra masonry, at the rate of one rupee per 5,000 cubic feet of building.

(c)—On roads and banks, or road metal consolidated with such water, at the rate of one rupee per 4,000 cubic feet of construction.

## APPENDIX III

THE water-rates as detailed below are in force on the Agra Canal.

## I.—Occupier's Rate.

Section 36 of the Act.

Class.	Nature of crops.	Per acre irrigated.		Per
		Natural Flow.	Lift.	
		Rs. a. p.	Rs a <sup>2</sup> p.	
I	Sugar cane, rice .. ..	6 10 8	3 5 4	Year.
II	Tobacco, opium, vegetables, orchards, and water-nuts	4 0 0	2 0 0	Crop.
III	All rabi crops, indigo and cotton .. ..	3 0 0	1 8 6	Do.
IV	All kharif crops not specified above .. ..	2 0 0	1 0 0	Do.

## II.—Owner's Rate

Owner's Rate \* is leviable at one-third the Occupier's Rate in all lands assessed as unirrigated at Settlement but now irrigated from the canal.

\* Sections 37, 38 and 39 of the Act.

## APPENDIX IV.

The following rates for boats plying on the Agra Canal will be levied :—

Class.	Width of beam.	Rates per quarter.		
		Rs.	a.	p.
A.	Over 10 feet beam	20	0	0
B.	Over 6 feet and under 10 feet beam	10	0	0
C.	Six feet beam and under	8	0	0

And for rafting timber and bamboos as follows :—

Class.	Description.	Rate.	
1	Logs, whether round or squared, exceeding 2½ feet in girth	Per mile per- 100 cubic feet of raft.	9 pies.
2	Logs, less than 2½ feet in girth including karis, ballas, sleepers, &c., &c.,	Ditto	4 pies.
3	Bamboos	Ditto	2 pies

Firewood will not be allowed to enter the canal in rafts.

## APPENDIX V.

License for ferry boat or raft, *canal.*  
 Position of ferry.  
 Dimensions of boat or raft.  
 Name of person to whom license is granted.  
 Period for which license is granted.  
 Tolls leviable at ferry.

## CONDITIONS.

This license may be rescinded if tolls be levied in excess of those specified above, or if the boat or raft be not maintained in proper working condition, or if delays or obstructions to travellers occur, or for other fault which in the judgment of the Canal Officer, demands it. Appeals against the orders of the Canal Officer shall lie to the Superintending Canal Officer.

STATION AND DATE.

(Sd.) A. B. *Ex. Engr.*  
*Divisional Canal*

## APPENDIX VI.

No. \_\_\_\_\_ TRAFFIC DEPARTMENT,

CANAL.

PASS TICKET

18

Boat No.

Date of entry.

Owner's name.

Occupation.

Residence or place of business.

Name of person in charge.

Measurement of boat.

Estimated carrying capacity.

Tolls paid from 18 to

Maunds

Amount Rs. annas

18 .  
pie

By whom issued.

Date of leaving canal.

*Navigation.**Station.*

I hereby certify that all demands against boat No. for tolls, right of way, damage to canal works, &c , &c , up to date have been satisfied.

*Navigation.*

## APPENDIX VII

No. — —TRAFFIC DEPARTMENT,

CANAL.

Received from

18

Rupees annas

pies

Being amount of toll on boat No.

from

to

Rs.

*Navigation Department  
In charge of**Canal.  
station.*

## APPENDIX VIII.

No. ———TRAFFIC DEPARTMENT,

CANAL.

PASS FOR BOAT NO

*Station, dated*

18 .

1. Date of departure.
2. Name and address of owner of boat.
3. Name and address of owner of cargo.
4. Description of cargo.
5. Weight of cargo in maunds (Government).
6. Place of departure on canal.
7. Destination on canal.
8. Ultimate destination
9. Distance by canal
10. Rate of freight
11. Amount of freight.
12. Value of cargo
13. Number of Passengers
14. Remarks.

*Signature of Navigation Agent*

## APPENDIX X.

No ——— TRAFFIC DEPARTMENT,

CANAL

RAFTING PASS.

From

To

Distance

miles.

Description of rafts.

Dimensions.

Cubic contents.

Rate of tolls, Rs.

Amount paid, Rs.

Estimated value of rafts, Rs.

Name of owner.

Residence.

Name of person in charge.

Date of entering canal.

Rs.

Received at

of

18

(Signature.)

Canal.

Station.

Navigation.

## APPENDIX X.

Return of boats or cargo or goods which have been lying unclaimed on the ——— Canal, or on or in lands or warehouses occupied for the purpose of a canal for a period of over two months.

Register number.	Description.	Tonnage of boat or weight of cargo or goods	Now lying at.	Date of abandonment.	Canal dues.
1	2	3	4	5	6

To the Executive Engineer,

A. B.,  
Traffic Manager,

## APPENDIX XI.

Notice of sale of derelict boats (or cargo) at

WHEREAS a vessel has been found abandoned in the ——— Canal, and has been left unclaimed for a period of two months ; or—

Whereas certain cargo or goods carried in a Government vessel on the ——— Canal have been left unclaimed for a period of two months at or—

Whereas certain cargo or goods stored on or in lands or ware-houses occupied for the purposes of the ——— Canal have been left unclaimed for a period of two months at

The Divisional Canal Officer has taken possession of the same under Section 54 of Act VIII of 1873.

Notice is hereby given that if such vessel and its contents (or such cargo or goods) are not claimed previously to the (1)———, the same will be sold.

The said vessel and its contents, and the said cargo or goods, if unsold, or, if a sale has taken place, the proceeds of the sale, after paying all tolls, charges, and expenses, incurred by the Divisional Canal Officer on account of the taking possession and sale, will be made over to the owner of the same, when his ownership is established to the satisfaction of the Divisional Canal Officer.

If no claim to the property or proceeds is established to the satisfaction of the Divisional Canal Officer before the (2)———, the proceeds will, on or after that date, be paid into the District Treasury there to be held until the right thereto be decided by a Court of competent jurisdiction.

A. B.,  
Executive Engineer, ——— Division,

Canal.

## APPENDIX XII.

Abstract of cases decided by \_\_\_\_\_ in the \_\_\_\_\_  
district during the month of \_\_\_\_\_ 188

Pargana.	Village.	Name of accused.	Offence (quoting Act and rules.)	By whom reported.	Defence (if any).	Witnesses for defence examined.	Name and designation of witnesses for the prosecution	Finding and sentence.	Duration of trial.	REMARKS.

## APPENDIX XIII.

Statement of land irrigated during fast \_\_\_\_\_

\_\_\_\_\_ 12 \_\_\_\_\_

To \_\_\_\_\_, son of \_\_\_\_\_  
cultivator of mauza \_\_\_\_\_ pargana \_\_\_\_\_

This parcha was delivered on the \_\_\_\_\_ 188

Number.		Area of land and nature of irrigation.		Name of crop.	Amount of demand.	
Khatiauni.	Settlement.	Flow.	Lift.			
						<p><i>Notice to the Cultivator.</i></p> <p>The cultivator should observe whether the date in the parcha is correct or not. If he objects to any field he should state his objection to any Canal Officer within 21 days after receiving the parcha, or he may make his complaint through the Post or by appearing in person. He should enter in his petition of complaint the number of the field to which he objects. If he presents it after the lapse of 21 days or omits to insert the number, his complaint will be rejected.</p> <p>N. B.—As the cultivator was not present at the distribution of the parcha it was handed over to B.</p>

AMIN.

(Notification No. 0392 I, dated 30 June 1885, Punjab Gazette of 2nd July, Part I, Page 46).

(j). As regards remissions of canal revenue for calamity of season, see Financial Commissioner's Circulars No. 15 of 1886, and No 29 of 1887



## ACT No. X of 1873.

(*Passed on the 8th April 1873*).

An Act to consolidate the law relating to Judicial Oaths, and for other purposes.

Whereas it is expedient to consolidate the law relating to judicial oaths, affirmations, and declarations, and to repeal the law relating to official oaths, affirmations, and declarations ; It is hereby enacted as follows :—

### I.—*Preliminary.*

Short title                      1. This Act may be called “ The Indian Oaths Act, 1873 :”

Local extent                It extends to the whole of British India, and, so far as regards subjects of Her Majesty, to the territories of Native Princes and States in alliance with Her Majesty.

### 2. *Repealed by Act XII of 1873.*

3. Nothing herein contained applies to proceedings before Courts Martial, or to oaths, affirmations, or declarations prescribed by any law which, under the provisions of the Indian Councils Act, 1861, the Governor-General in Council has not power to repeal.

Saving of certain oaths and affirmations

### II.—*Authority to administer Oaths and Affirmations.*

4. The following Courts and persons are authorized to administer by themselves or by an officer empowered by them in this behalf, oaths and affirmations in discharge of the duties or in exercise of the powers imposed or conferred upon them respectively by law :—

Authority to administer oaths and affirmations

(a). All Courts and persons having by law or consent of parties authority to receive evidence ;

(b). The Commanding Officer of any military station occupied by troops in the service of Her Majesty : provided

(1) that the oath or affirmation be administered within the limits of the station, and

(2) that the oath or affirmation be such as a Justice of the Peace is competent to administer in British India.

### III.—*Persons by whom Oaths or Affirmations must be made.*

Oaths or affirmations to be made by—                5. Oaths or affirmations shall be made by the following persons :—

(a). all witnesses, that is to say, all persons who may lawfully be examined, or give, or be required to give, evidence by or before any Court or person having by law or consent of parties authority to examine such persons or to receive evidence;

witnesses ;

interpreters ;

jurors.

(b). interpreters of questions put to, and evidence given by, witnesses, and

(c). jurors.

Nothing herein contained shall render it lawful to administer, in a criminal proceeding, an oath or affirmation to the accused person, or necessary to administer to the official interpreter of any Court, after he has entered on the execution of the duties of his office, an oath or affirmation that he will faithfully discharge those duties.

Affirmation by natives  
or by persons objecting to  
oaths

6. Where the witness, interpreter, or juror is a Hindu or Muhammanadan,

or has an objection to making an oath,

he shall, instead of making an oath, make an affirmation.

In every other case the witness, interpreter or juror shall make an oath.

#### IV.—Forms of Oaths and Affirmations.

7. All oaths and affirmations made under section five shall be administered according to such forms as the High Court may from time to time prescribe.

Forms of oaths and affir-  
mations

And until any such forms are prescribed by the High Court, such oaths and affirmations shall be administered according to the forms now in use.

*Explanation.*—As regards oaths and affirmations administered in the Court of the Recorder of Rangoon and the Court of Small Causes of Rangoon, the Recorder of Rangoon shall be deemed to be the High Court within the meaning of this section.

NOTE.—The forms of oaths and affirmations prescribed by the Chief Court will be found at the end of the Act

8. If any party to, or witness in, any judicial proceeding offers to give evidence on oath or solemn affirmation in any form common amongst, or held binding by, persons of the race or persuasion to which he belongs, and not repugnant to justice or decency, and not purporting to effect any third person, the Court may, if it thinks fit, notwithstanding anything hereinbefore contained, tender such oath or affirmation to him.

Power of Court to tender  
certain oaths

9. If any party to any judicial proceeding offers to be bound by any such oath or solemn affirmation as is mentioned in section eight, if such oath or affirmation is made by the other party to, or by any witness in, such proceeding, the Court may, if it thinks fit, ask such party or witness, or cause him to be asked, whether or not he will make the oath or affirmation :

Court may ask party or  
witness whether he will  
make oath proposed by  
opposite party

Provided that no party or witness shall be compelled to attend personally in Court solely for the purpose of answering such question.

10. If such party or witness agrees to make such oath or affirmation, the Court may proceed to administer it, or if it is of such a nature that it may be more conveniently made out of Court, the Court may issue a Commission to any person to administer it, and authorize him to take the evidence of the person to be sworn or affirmed and return it to the Court.

Administration of oath  
if accepted.

Evidence conclusive as against person offering to be bound.

11. The evidence so given shall, as against the person who offered to be bound as aforesaid, be conclusive proof of the matter stated.

12. If the party or witness refuses to make the oath or solemn affirmation referred to in section eight, he shall not be compelled to make it, but the Court shall record, as part of the proceedings, the nature of the oath or affirmation proposed, the facts that he was asked whether he would make it, and that he refused it, together with any reason which he may assign for his refusal.

Procedure in case of refusal to make oath.

V.—Miscellaneous.

13. No omission to take any oath or make any affirmation, no substitution of any one for any other of them, and no irregularity whatever in the form in which any one of them is administered, shall invalidate any proceeding or render inadmissible any evidence whatever, in or in respect of which such omission, substitution or irregularity took place, or shall affect the obligation of a witness to state the truth.

Proceedings and evidence not invalidated by omission of oath or irregularity.

14. Every person giving evidence on any subject before any Court or person hereby authorized to administer oaths and affirmations shall be bound to state the truth on such subject.

Persons giving evidence bound to state the truth.

15. The Indian Penal Code, sections 178 and 181, shall be construed as if, after the word "oath," the words "or affirmation" were inserted.

Amendment of Penal Code, Sections 178 and 181

16. Subject to the provisions of sections three and five, no person appointed to any office shall, before entering on the execution of the duties of his office, be required to make any oath, or to make or subscribe any affirmation or declaration whatever.

Official oaths abolished.

SCHEDULE.

(ENACTMENTS REPEALED).

*Repealed by Act XII of 1873.*

NOTE.—Oaths and Affirmations under the Indian Oaths Act, (Act X of 1873, section 7).

Under section 7 of the Indian Oaths Act (X of 1873), the Chief Court has prescribed for use in the Courts of the Punjab, the annexed forms of oaths and affirmations, to be made by witnesses who may be required to give evidence by or before any Court, or duly authorized person, and by interpreters and jurors.—(*Judicial Circular No. CXXXV*)

Forms of oaths and affirmations prescribed.

(CIVIL).

*Oath for Witness.*

1 The evidence which I shall give to the Court in this case shall be the truth, the whole truth, and nothing but the truth. So help me God !

Oath for witness.

*Affirmation for Witness.*

2 I solemnly affirm in the presence of Almighty God that the evidence which I shall give to the Court in this case shall be the truth, the whole truth, and nothing but the truth. So help me God !

Affirmation for witness.

*Oath for Interpreter.*

Oath for interpreter.

3. I shall well and truly interpret what is deposed by the witness before the Court.  
So help me God !

*Affirmation for Interpreter.*

Affirmation for interpreter.

4. I solemnly affirm in the presence of Almighty God that I shall well and truly interpret what is deposed by the witness before the Court.

(CRIMINAL).

*Oath for Witness in cases tried by a Jury.*

Oath for witness in jury cases.

1. The evidence which I shall give to the Court and the Jury touching the matters in question between our Sovereign Lady the Queen and the prisoner at the Bar, shall be the truth, and nothing but the truth.  
So help me God !

*Oath for witness in other Criminal cases.*

Oath for witness in other criminal cases.

2. The evidence which I shall give to the Court in this case shall be the truth, the whole truth, and nothing but the truth.  
So help me God !

*Affirmation for Witness in cases tried by a Jury.*

Affirmation for witness in jury cases.

3. I solemnly affirm in the presence of Almighty God that the evidence which I shall give to the Court and the Jury touching the matters in question between our Sovereign Lady the Queen and the prisoner at the Bar shall be the truth, the whole truth, and nothing but the truth.

*Affirmation for Witness in other Criminal cases.*

Affirmation for witness in other criminal cases.

4. I solemnly affirm in the presence of Almighty God that the evidence which I shall give to the Court shall be the truth, the whole truth, and nothing but the truth

*Oath for Interpreter.*

Oath for interpreter in criminal cases.

5. I shall well and truly interpret what is deposed by the witness between our Sovereign Lady the Queen and the prisoner at the Bar  
So help me God !

*Affirmation for Interpreter.*

Affirmation for interpreter in criminal cases.

6. I solemnly affirm in the presence of Almighty God that I shall well and truly interpret what is deposed by the witness between our Sovereign Lady the Queen and the prisoner at the Bar.

*Oath for Jurors.*

Oath for jurors.

7. I shall well and truly try, and true deliverance make between our Sovereign Lady the Queen and the prisoner at the Bar and give a true verdict according to the evidence.

*Affirmation for Jurors.*

Affirmation for jurors.

8. I solemnly affirm in the presence of Almighty God that I shall well and truly try, and true deliverance make, between our Sovereign Lady the Queen and the prisoner at the Bar, and give a true verdict according to the evidence.

**ACT No. XIV of 1873.**

(Passed on the 11th September 1873).

An Act to provide for the security and application of the effects of Officers and Soldiers becoming insane on service, but not removed, put on half-pay, or discharged.

Whereas it is expedient to provide for the security and application of  
the effects of officers and soldiers becoming insane  
Preamble. on service, but not removed, put on half-pay, or dis-  
charged ; It is hereby enacted as follows :—

Short title.                      I. This Act may be called "The Lunatic Soldiers' Property Act, 1873."

Local extent. It extends to the whole of British India, and, so far as regards subjects of Her Majesty, to the dominions of Native Princes and States in India in alliance with Her Majesty.

**Interpretation-clause.**                      **2.** In this Act—

“Officer.” “Officer” means a Commissioned Officer of Her Majesty’s Army, or of Her Majesty’s Indian Army; and

“Soldier” means a Soldier of Her Majesty’s Army, or a European Soldier of Her Majesty’s Indian Army, including a Warrant and a Non-Commissioned Officer.

**3.** When an officer or soldier becomes insane on service, but is not removed, put on half-pay, or discharged, on the ground of insanity, such Committee of officers as the Governor-General in Council may from time to time prescribe, shall immediately secure all such of his effects as are within the territories to which this Act extends.

4. Such effects shall be liable to be applied in or towards payment of any expenses necessarily incurred in the maintenance and removal of such officer or soldier to any place in India, and of any such expenses and debts incurred and owing by him as would, under Part I of the Regimental Debts' Act, 1863, be preferential charges on his moveable property in case he had died on service, with the like preference, in the like order, and subject to the like provision for decision of doubt or difference, as would in that case apply, as nearly as may be, *mutatis mutandis*.

5. If any person who would, if such officer or soldier were dead, be entitled to take out representation to him (otherwise than as a creditor), or his wife (if any), or any near relative, pays in full the expenses and debts aforesaid, the said Committee shall not further interfere in relation to the property.

Committee on payment of expenses and debts by representative.

6. If such payment is not made, then, within one month after the Administration by Com- insanity is known at the quarters where the pro- mittee. perty is, the said Committee may sell and convert into money such part of the property as they think fit,

and, after paying out of the proceeds the expenses attending the discharge of their duties, shall pay thereout the expenses and debts aforesaid,

and shall dispose of any property then remaining in their hands in such manner as may from time to time be prescribed by the Governor-General in Council, or by such officer as he appoints in this behalf, to the end that the same may be applied for the benefit of the officer or soldier to whom it belongs.

7. Every payment or application of money, and every sale or other disposition of property, made by any Committee in pursuance of this Act, shall be valid as against all persons whomsoever.

Validation of payments, sales, and dispositions by Committee.

And every officer belonging to any such Committee shall be discharged from all liability in respect of the money or other property so paid, applied or disposed of.

Indemnity.

8. The Governor-General in Council may, from time to time, prescribe such regulations as may seem fit for the better execution of any of the purposes of this Act.

Power to make regulations.

NOTE.—The Governor-General in Council, in the exercise of the powers conferred on him by this Act, has directed that Committees for the purposes of the said Act shall be composed and appointed in the same manner as Committees of Adjustment under Clause 33 of the Regulations annexed to the Royal Warrant made on the 30th September 1864 under the Regimental Debts Act, 1863, and shall be guided in their proceedings by Clause 34 of the said Regulations, in so far as the same may be found applicable.

Whenever such Committee may have, in the exercise of the discretion allowed them by Section 6 of this Act, reserved from sale any portion of the lunatic's property, they shall make a special report of the matter to the Military Secretary to the Government of the Presidency in which such property is situated, and shall be guided by such instructions as they may thereupon receive from him regarding the disposal of such property.—(*Notification No. 190, dated 27th February 1874—Punjab Gazette of 5th March 1874*).

## ACT No. II of 1874.

(*Passed on the 10th February 1874*).

An Act to consolidate and amend the law relating to the office and duties of Administrator-General.

Whereas it is expedient to consolidate and amend the law relating to the office and duties of Administrator-General; It is hereby enacted as follows :—

Preamble.

### PART I.

#### PRELIMINARY.

1. This Act may be called "The Administrator-General's Act, 1874."

Short title.

It extends to the whole of British India and, so far as regards British subjects of Her Majesty, to the dominions of Princes and States in alliance with Her Majesty ;

Local extent.

Commencement.

And it shall come into force at once.

2. Act No. XXIV of 1867 (*to consolidate and amend the law relating to the office and duties of Administrator-General*)

Repeal of Acts. and Act No. XIX of 1869 (*to facilitate administration to the estates of deceased British subjects in the Hyderabad Assigned Districts*) and Act No. V of 1870 (so far as it relates to the Administrator-General) are hereby repealed.

All things duly done under any of the enactments hereby repealed shall be considered as having been done under this Act.

Interpretation-clause.

3. In this Act—unless there be something repugnant in the subject or context—

“Presidency of Bengal.”

“Presidency of Bengal” includes

(a) the territories for the time being respectively under the Governments of the Lieutenant-Governors of Bengal, the North-Western Provinces, and the Punjab;

(b) the territories for the time being respectively under the administrations of the Chief Commissioners of Oudh, the Central Provinces, British Burma, Ajmer and Mairwara, Assam, and the Andaman and Nicobar Islands;

(c) such of the dominions of Princes and States aforesaid as the Governor-General in Council may, by notification in the *Gazette of India*, from time to time direct;

“Presidency of Madras.”

“Presidency of Madras” includes

(a) the territories for the time being under the Government of the Governor of Fort St. George in Council;

(b) such of the dominions aforesaid as the Governor-General in Council may, by notification in the *Gazette of India*, from time to time direct;

(c) Coorg;

(d) Mysore;

“Presidency of Bombay.”

“Presidency of Bombay” means

(a) the territories for the time being under the Government of the Governor of Bombay in Council;

(b) such of the dominions aforesaid as the Governor-General in Council may, by notification in the *Gazette of India*, from time to time direct;

(c) the Haidarabad Assigned Districts:

“Presidency Town.”

“Presidency Town” means the town of Calcutta, Madras, or Bombay, as the case may be:

“Government” means the Governor-General in Council, so far as the Act relates to the Presidency of Bengal; the

“Government.” person for the time being administering the executive government of the Presidency of Fort St. George, so far as the Act relates to the Presidency of Madras; and the person for the time being administering the executive Government of the Presidency of Bombay, so far as the Act relates to the Presidency of Bombay:

“Letters of Administration” shall include any letters of administration, whether general or limited, or with a will annexed, and letters *ad colligenda bona* :

“Next-of-kin” includes a widower or widow of a deceased person, or any other person who, by law and according to the practice of the Courts, would be entitled to letters of administration in preference to a creditor or legatee of the deceased :

“Officer.” “Officer” means a commissioned officer of Her Majesty’s Army, or of Her Majesty’s Indian Army:

“Soldier.” “Soldier” means a soldier of Her Majesty’s Army, or European soldier of Her Majesty’s Indian Army, including a warrant and a non-commissioned officer :

“Assets.” “Assets” includes immoveable as well as moveable property.

NOTE.—In exercise of the power conferred by Section 3 of Act II of 1874 (the Administrator-General’s Act), the Governor General in Council is pleased to direct that the dominions of Princes and States in India in alliance with Her Majesty shall, for the purposes of the said Act, be included in the Presidencies of Bengal, Madras, and Bombay, respectively, as follows :—

*In the Presidency of Bengal.*

Cooch Behar.	Mandi.	Baoni.
Hill Tipperah.	Mungul.	Baraunda.
Manipur.	Nabha.	Behat.
The States in the Jynteah	Pataudi.	Beri.
and Cossyah hills.	Patiala.	Bhaisaunda.
The tributary mehals of	Sangri.	Bijawar.
Chota Nagpore.	Sirmur (Nahan).	Bijna.
The tributary mehals of	Suket.	Charkhari.
Cuttack.	Taroch.	Chhaturpur.
Rampur.	Bhurtpore.	Datia.
Tehri (Garhwal).	Bikanir.	Dhurwai.
Baghal.	Boondeo.	Garrauli.
Baghat.	Dholpur.	Gaurihar.
Bahawalpur.	Jeypore.	Jaso.
Balsan.	Jesulmer.	Jigni.
Bashahr.	Jhallawar.	Kamta Rajaula.
Bhajji.	Jodhpore or Marwar.	Khaniadhana.
Bija.	Kerauli.	Kothi.
Chamba.	Kishengarh.	Lughasi.
Darkuti.	Kotah.	Maihar.
Dhami.	Lawa.	Nagode.
Dujana.	Shahpura.	Nayagaon.
Faridkot.	Tonk, with the exception of	Orchha.
Hindur (Nalagarh).	Pirawa, Nibhera and Seronje	Pahari Banka.
Jind.	Ulwur.	Pahara.
Jubbal.	The Marwarra pergunas belonging	Paldeo.
Jummoo and Kashmir	to Meywar and Marwar.	Panna.
Kahlur (Bilaspur).	Gwalior.	Rewah.
Kalsia.	The whole State excepting the Sir	Samthar.
Kapurthala.	Subaship of Malwa and certain	Sarila.
Keonthal.	districts under the Sir Subah of	Sohawal.
Kumharsani.	Isagarh which are included in the	Taraon.
Kunhiar.	Presidency of Bombay.	Tori Fatehpur.
Kuthar.	Bundelkhand and Baghelkand	Holker’s district of
Loharu.	States and Chiefships :—	Alampur.
Mailog.	Ajaigarh.	
Maler Kotla.	Alipura.	



In exercise of the powers conferred by Section 3 of the Administrator-General's Act (II of 1874), and in continuation of the Notification cited in the margin, the Governor-General in Council is pleased to direct that the dominions of His Highness the Khan of Kalat shall, for the purposes of the said Act, as regards British subjects of Her Majesty in those dominions, be deemed to be included in the Presidency of Bengal.

(Government of India No. 510 E., dated 2nd March 1887, Gazette of India of 5th idem)

## PART II.

### OF THE OFFICE OF ADMINISTRATOR-GENERAL.

Designation of the Administrators-General in the three Presidencies.

4. In each of the Presidencies of Bengal, Madras and Bombay, there shall be an Administrator-General.

The said Administrators-General shall be called respectively the Administrator-General of Bengal, the Administrator-General of Madras, and the Administrator-General of Bombay.

Appointment, suspension and removal of Administrators-General.

5. Such officers shall be appointed and may be suspended or removed by the authorities hereinafter mentioned respectively; that is to say:—

The Administrator-General of Bengal, by the Governor-General in Council:

the Administrator-General of Madras, by the Government of Fort St. George; and

the Administrator-General of Bombay, by the Government of Bombay.

6. Any person hereafter appointed to the office of Administrator-General or officiating Administrator-General of any of the said Presidencies, shall be a member of the Bar of England or Ireland, or of the Faculty of Advocates in Scotland; but any person now holding such office shall continue to hold the same, subject to the provisions contained in the other sections of this Act.

Administrator-General not an officer of High Court.

7. The Administrator-General shall not be deemed in that capacity to be an officer of any High Court.

8. All probates and letters of administration granted by any of the late Supreme Courts of Judicature to the Ecclesiastical Registrar of such Court in virtue of his office, shall have the same effect in all respects as to any act hereafter to be done or required to be done under this Act, as if they had been granted to the Administrator-General.

Probates, &c., granted by Supreme Courts to Ecclesiastical Registrars to have same effect as if granted to Administrator-General.

No Administrator-General to be Ecclesiastical Registrar.

Administrator-General not to hold any other office without sanction of Government.

9. No person now holding the office of Administrator-General, or hereafter to be appointed to such office in any of the said Presidencies, shall hold the office of Ecclesiastical Registrar; nor, without the express sanction of Government, any other office together with that of Administrator-General:

Provided that the Administrator-General of the Presidency may be appointed Official Trustee under Act No. XVII of 1864 (to constitute an office of Official Trustee):

Provided also, that the Administrator-General of Bengal may hold the office of Receiver of the High Court of Judicature at Fort William.

**10.** It is hereby declared to be an offence punishable in manner provided by section one hundred and sixty-eight of the Indian Penal Code, for any Administrator-General to trade or traffic for his own benefit, or for the benefit of any other person, unless so far as appears to him to be expedient for the due management of the estates which come into his charge under the provisions of this Act, and for the sole benefit of the several persons entitled to the proceeds of such estates respectively; but this exception is not to be construed to alter the civil liabilities of the Administrator-General as trustee of such estates.

**11.** Unless the Governor-General in Council, or the Government, with the sanction of the Governor-General in Council, otherwise orders, every Administrator-General hereafter to be appointed shall give security to the Secretary of State for India for the due execution of his office, for one lakh of rupees by his own bond, and for another lakh of rupees, or for separate sums amounting together to one lakh of rupees, by the deposit of Government securities, or by the joint and several bond or bonds of two or more securities to be approved by Government, or partly by such deposit and partly by such bond or bonds.

Provided that every Administrator-General may, with the consent of Government, substitute either of the said two last-mentioned kinds of security for another previously given for such last-mentioned lakh or any part of it:

and every Administrator-General may, with the consent of Government, and shall from time to time when required by Government so to do, cause fresh sureties to be substituted for any of those previously bound, so far as the security relates to the due execution of his office for the time then to come.

**12.** No Administrator-General shall be required by any Court to enter into any administration bond, or to give other security to the Court, on the grant of any letters of administration to him in virtue of his office.

No Administrator-General shall be required to verify, otherwise than by signature, any petition presented by him under the provisions of this Act, and if the facts stated in any such petition are not within the Administrator-General's own personal knowledge, the petition may be subscribed and verified by any person competent to make the verification.

Whoever makes a statement in any such petition which is false, and which he either knows or believes to be false or does not believe to be true, shall be deemed to have intentionally given false evidence in a stage of a judicial proceeding.

**13.** Whenever any person holding the office of Administrator-General obtains leave of absence, the Government may appoint some person to officiate as Administrator-General, and such person, while so officiating, shall be subject to the same conditions and be bound by the same responsibilities as the Administrator-General by any law for the time being in force, and he shall be deemed to be Administrator-General for the time being under this Act, and shall be liable to give security under section eleven in like manner as if he had been appointed Administrator-General.

## PART III.

## OF THE RIGHTS, POWERS, AND DUTIES OF THE ADMINISTRATOR-GENERAL.

(a). *Grant of Letters of Administration and Probate to the Administrator-General.*

14. So far as regards the Administrator-General of any of the Presidencies of Bengal, Madras, and Bombay, the High Court at the Presidency town shall be deemed to be a Court of competent jurisdiction within the meaning of sections one hundred and eighty-seven and one hundred and ninety of the Indian Succession Act, 1865, wheresoever within the Presidency the property to be comprised in the probate or letters of administration may be situate.

As regards Administrator-General, High Court at Presidency town to be deemed a Court of competent jurisdiction within meaning of Act X of 1865, sections 187 and 190.

15. Any letters of administration, or letters *ad colligenda bona*, hereafter granted by the High Court of Judicature at any Presidency town, shall be granted to the Administrator-General of the Presidency, unless they are granted to the next-of-kin of the deceased.

Administrator-General entitled to letters of administration, unless granted to next-of-kin.

The Administrator-General of the Presidency shall be deemed by all the Courts in the Presidency to have a right to letters of administration in preference to that of any person merely on the ground of his being a creditor, a legatee other than an universal legatee, or a friend of the deceased.

Administrator-General entitled in preference to creditor, non-universal legatee or friend.

16. If any person, not being a Hindu, Muhammadan, Parsi, or Buddhist, or a person exempted under the Indian Succession Act, 1865, section three hundred and thirty-two, from the operation of that Act, shall have died, whether within any of the said Presidencies or not, and whether before or after the passing of this Act, and shall have left assets exceeding at the date of the death or within one year thereafter the value of one thousand rupees within any of the said Presidencies,

When administration of estates of persons other than Hindus, &c, is to be by Administrator General.

and if no person to whom the Court would have jurisdiction to commit administration of such assets has, within one month after his death, applied in such Presidency for probate of his will, or for any letters of administration of his estate,

the Administrator-General of the Presidency in which such assets are, shall, within a reasonable time after he has had notice of the death of such person, and of his having left such assets as aforesaid, take such proceedings as may be necessary to obtain from the High Court at the Presidency town, letters of administration to the effects of such person, either generally or with a will annexed, as the case may require.

Whenever the Administrator-General of the Presidency takes proceedings under this section, it shall be sufficient if the petition required by section two hundred and forty-six of the Indian Succession Act, 1865, states

(a) the time and place of the deceased's death to the best of the petitioner's knowledge or belief,

(b) that the deceased left some property within the Presidency as hereinbefore defined, and

(c) the amount or value of assets which are likely to come into the petitioner's hands.

17. Whenever any person, whether a Hindu, Muhammadan, Parsi, or Buddhist, or not, shall have died leaving assets within the local limits of the ordinary original civil jurisdiction of the High Court at the Presidency town, it shall be lawful for the Court,

upon the application of any person interested in such assets, or in the due administration thereof, either as a creditor, legatee, next-of-kin, or otherwise, or

upon the application of a friend of any minor so interested, or

upon the application of the Administrator-General,

if the applicant satisfies the Court that danger is to be apprehended of the misappropriation, deterioration, or waste of such assets unless letters of administration of the effects of such person are granted,

to make an order upon such terms as to indemnifying the Administrator-General against costs and other expenses as the Court thinks fit, directing the Administrator-General to apply for letters of administration of the effects of such person :

Provided that, in the case of an application being made under this section for letters of administration to the effects of a deceased Hindu, Muhammadan, Parsi, or Buddhist, or person exempted as aforesaid, the Court may refuse to grant letters of administration to any person, if it be satisfied that such grant is unnecessary for the protection of the assets, and in such case the Court shall make such order as to the costs of the application as it thinks just.

18. Whenever any person, whether a Hindu, Muhammadan, Parsi, or Buddhist, or not, shall have died, whether before or after the passing of this Act, leaving assets within the local limits of the ordinary original civil jurisdiction of any of the said High Courts, and such Court is satisfied that danger is to be apprehended of the misappropriation, deterioration, or waste of such property, before it can be ascertained who may be legally entitled to the succession to such property, or whether the Administrator-General is entitled to letters of administration to such deceased person,

the Court may authorize and enjoin the Administrator-General to collect and take possession of such property, and to hold or deposit or invest the same according to the orders and directions of the Court, and in default of any such orders or directions, according to the provisions of this Act so far as the same are applicable to such property ;

and the Administrator-General shall be entitled to a commission of one per centum upon the amount of all moveable assets collected or received by him in pursuance of such order, and also to reimburse himself for all payments made by him in respect of the assets which a private administrator of such assets might lawfully have made ;

and in case letters of administration of any such property are afterwards granted to the Administrator-General, the said commission of one *per centum* shall be deemed a part payment of the commission payable to the Administrator-General under the letters of administration.

Any order of Court made under the provisions of this section shall entitle the Administrator-General to collect and to take possession of such property, and, if necessary, to maintain a suit for the recovery thereof.

Note.—In the above three sections the word “Parsi” is inserted by Act IX of 1881.

Probate to be granted to executor appearing in the course of proceedings taken by Administrator-General

19. If in the course of proceedings to obtain letters of administration under the provisions of section sixteen or section seventeen,

any executor appointed by a will of the deceased appears according to the practice of the Court and proves the will and accepts the office of executor,

or if any person appears according to such practice and makes out his claim to letters of administration as next-of-kin of the deceased, and gives such security as is required of him by law or by the practice of the Court,

the Court shall grant probate of the will or letters of administration accordingly, and shall award to the Administrator-General his costs of the proceedings so taken by him, to be paid out of the estate as part of the testamentary or intestate expenses thereof.

Costs of proceedings taken by Administrator-General to be paid out of estate.  
If no executor or next-of-kin appear or give necessary security, administration to be granted to Administrator-General.

20. If no person appears according to the practice of the Court, and entitles himself to probate of a will, or to a grant of letters of administration as next-of-kin of the deceased,

or if the person who entitles himself to a grant of administration neglects to give such security as may be required of him by law or according to the practice of the Court,

the Court shall grant letters of administration to the Administrator-General.

21. The Administrator-General shall, when duly authorized or required

Administrator-General in certain cases to secure and distribute the effects of soldiers.

so to do by the Military Secretary to Government, secure and distribute the assets of the estate and effects of any officer, soldier, or other person subject to any Articles of War, in all cases in which such estate and effects do not exceed in the whole five hundred rupees, charging the estate with a commission of three *per centum* only.

It shall not be necessary for the Administrator-General to take out letters of administration in cases referred to in this

Proviso. section : but he shall have the same powers with regard to all such assets as he would have had if he had taken out such letters.

22. When the Administrator-General applies for letters of administration to the effects of any officer, soldier, or other person,

Power to grant Administrator-General letters limited to purpose of dealing with assets in accordance with Regimental Debts Act.

subject to the Articles of War, the Court may grant to him letters of administration limited to the purpose of dealing with such effects in accordance with the provisions of the Regimental Debts Act,

1863, or any other law for the time being in force relating to the payment of regimental debts and the distribution of the effects of officers dying on service.

Administrator-General not precluded from applying for letters in any case within one month after death.

23. Nothing in this Act is intended to preclude the Administrator-General from applying to the Court for letters of administration in any case within the period of one month from the death of the

**23. A.** Probate or letters of administration granted by the High Court at Calcutta, Madras or Bombay to the Administrator-General of the Presidency of Bengal, Madras or Bombay, as the case may be, shall have effect over all the property and estate, moveable or immoveable, of the deceased throughout such Presidency, and shall be conclusive as to the representative title against all debtors of the deceased, and all persons holding property which belongs to him, and shall afford full indemnity to all debtors paying their debts and all persons delivering up such property to such Administrator-General: Provided that the High Court may direct, by its grant, that such probate or letters of administration shall have like effect throughout either or both of the other Presidencies.

Whenever a grant of probate or letters of administration is made by a High Court to the Administrator-General, with such effect as last aforesaid, the Registrar of such Court shall send to each of the other two High Courts a certificate that such grant has been made, and such certificate shall be filed by the Court receiving the same.

NOTE.—This section has been added by Act IX of 1881.

**24.** If any letters of administration granted to the Administrator-General under the provisions of this Act be revoked or recalled, the same shall, so far as regards the Administrator-General and all persons acting under his authority in pursuance thereof, be deemed to have been only voidable; except as to any act done by any such Administrator-General or other person as aforesaid, after notice of a will or of any other fact which would render such letters void:

After revocation, letters of administration granted to Administrator-General to be deemed as to him to have been voidable only.

Exception.

Provided that no notice of a will or of any other fact which would render any such letters void shall affect the Administrator-General or any person acting under his authority in pursuance of such letters, unless, within the period of one month from the time of giving such notice, proceedings be commenced to prove the will, or to cause the letters to be revoked, nor unless such proceedings be prosecuted without unreasonable delay.

Proviso.

**25.** If any letters of administration granted under this Act be revoked upon the production and proof of a will, all payments made or acts done by or under the authority of the Administrator-General in pursuance of such letters of administration prior to the revocation thereof, which would have been valid under any letters of administration lawfully granted to him with such will annexed, shall be deemed valid notwithstanding such revocation.

Validity of payments made by Administrator-General prior to revocation of administration.

**26.** If an executor or next-of-kin of the deceased, who has not been

Recall of Administrator-General's administration, and grant of probate, &c, to executor or next-of-kin.

personally served with a citation or who has not had notice thereof in time to appear pursuant thereto, establish to the satisfaction of the Court a claim to probate of a will or to letters of administration in preference to the Administrator-General, any letters of administration granted by virtue of this Act to the Administrator-General may be re-called and revoked, and probate may be granted to such executor, or letters of administration granted to such other person as aforesaid :

Provided that no letters of administration granted to the Administrator-

Time within which application to revoke such administration must be made.

General shall be revoked or re-called for the cause aforesaid, except in cases in which a will or codicil of the deceased is proved in the Presidency, unless the application for that purpose be made within six months after the grant to the Administrator-General, and the Court be satisfied that there has been no unreasonable delay in making the application, or in transmitting the authority under which the application is made.

**27.** If any letters of administration granted to the Administrator-

Costs of obtaining administration, &c, may, on revocation, be ordered to be paid to Administrator-General out of assets.

General in pursuance of this Act be revoked, the Court may order the costs of obtaining such letters of administration, and the whole or any part of any commission which would otherwise have been payable under this Act, together with the costs of the Administrator-General in any proceedings taken to obtain such revocation, to be paid to or retained by the Administrator-General out of any assets belonging to the estate :

Provided that, in any such case, when the deceased has left a will appointing an executor, and probate of the will has been granted by any Court in the Presidency to such executor within three months after the death, or when the widow or next-of-kin has, within one month if resident within the Presidency, or within three months if resident beyond the Presidency, obtained from any such Court letters of administration to the estate and effects of the deceased, then and in either of such cases the Administrator-General shall (without prejudice to the provisions contained in sections seventeen and eighteen) not be entitled to receive or retain any commission out of any assets belonging to such estate and situate within the jurisdiction of the Court by which probate or administration has been granted as last aforesaid.

**28.** When the Administrator-General has given such notices as would

Distribution of assets.

have been given by the High Court in an administration-suit, for creditors and others to send in to him their claims against the estate of the deceased, he shall, at the expiration of the time therein named for sending in claims, be at liberty to distribute the assets or any part thereof in discharge of such lawful claims as he knows of, and shall not be liable for the assets so distributed to any person of whose claim he had not notice at the time of such distribution ; and no notice of any claim shall affect him unless proceedings to enforce such claim are commenced within one month after the giving of such notice and prosecuted without unreasonable delay.

Nothing herein contained shall prejudice the right of any creditor or other claimant to follow the assets or any part thereof in the hands of the persons who may have received the same, respectively.

NOTE.—This section has been substituted by Act IX of 1881.

Letters of administration to be granted to Administrator-General by his name of office.

29. All letters of administration granted to any Administrator-General in virtue of his office shall be granted to him by his name of office,

and all letters of administration heretofore granted to the Ecclesiastical Registrar or Administrator-General officially, or granted to any Administrator-General in virtue of his office, shall authorize the Administrator-General for the time being of the same Presidency to act as administrator of the estate to which such letters relate.

30. Every probate granted to any Administrator-General of a will wherein he is named as executor by virtue of his office, shall be granted to him by his name of office, and shall authorize the Administrator-General for the time being of the same Presidency to act as executor of the estate to which such probate relates.

31. Any private executor or administrator, may, with the previous consent of the Administrator-General of the Presidency in which the property comprised in the probate or letters of administration is situate, by an instrument in writing under his hand, notified in the local Gazette, transfer all estates, effects and interests vested in him by virtue of such probate or letters to the Administrator-General by his name of office ;

and thereupon the transferor shall be exempt from all liability as such executor or administrator, as the case may be, for any act or omission in respect of the said property after the date of the said transfer ;

and the Administrator-General for the time being shall have the rights and be subject to the liabilities which he would have had, and to which he would have been subject, if the probate or letters of administration, as the case may be, had been granted to him by his name of office at the date aforesaid.

Nothing herein contained shall be taken to exempt any such transferor from liability for acts and omissions in respect of the said property prior to the transfer.

32. Whenever the Administrator-General carries over assets to separate accounts in his books, he shall notify the fact in the local official Gazette ; and he may, with the consent of the Official Trustee, and subject to such rules as the Governor-General in Council may from time to time prescribe in this behalf, appoint the Official Trustee to be the trustee of such assets ; and upon such appointment such assets shall vest in the Official Trustee and his successors in office, and be held by him and them upon the same trusts as the same assets were held immediately before such appointment. And for the purposes of Act No. XVII of 1864, such assets shall be deemed to have been vested in the Official Trustee under section ten of that Act.

33. All estates, effects, and interests which at the time of the death, resignation, or removal from office of any Administrator-General, are vested in him by virtue of such letters of administration, probates or transfers as



aforesaid, shall, upon every such death, resignation, or removal, cease to be vested in him, and shall vest in his successor in office immediately upon his appointment thereto.

All books, papers and documents kept by such Administrator-General by virtue of his office, or as such executor or transferee as aforesaid, shall be transferred to and vested in his successor in office.

*(b).—Suits by and against the Administrator-General.*

Administrator-General to sue and be sued in his name of office.

**34.** All suits and other proceedings commenced by or against any Administrator-General in his representative character may be brought by or against him by his name of office,

and no suit or other proceeding heretofore or hereafter commenced by  
Suit not to abate by death, &c. or against any person as Administrator-General, either alone or jointly with any other person, shall abate by reason of the death, resignation, or removal from office of any such Administrator-General, but the same may, by order of the Court, and upon such terms as to the service of notices or otherwise as the Court may direct, be continued by or against his successor immediately upon his appointment, in the same manner as if no such death, resignation, or removal had occurred :

Provided that nothing hereinbefore contained shall render any such  
Proviso as to costs. successor personally liable for any costs incurred prior to the order for continuing the suit against him.

**35.** If any suit be brought by a creditor against any Administrator-General in his representative character, the plaintiff shall be liable to pay the costs of the suit down to and including the decree, unless upon proof by affidavit or otherwise that not less than one month previous to the institution of the suit he had applied in writing to the Administrator-General, stating the amount and other particulars of the claim, and supporting the same by such evidence as, under the circumstances of the case, the Administrator-General was reasonably entitled to require, and that the Administrator-General had refused or neglected to register the claim according to the practice of his office.

If in any such suit judgment is pronounced in favour of the plaintiff, he shall, nevertheless, be only entitled to payment out of the assets of the deceased equally and rateably with the other creditors.

*(c).—Grant of Certificates by the Administrator-General.*

**36.** Whenever any person shall have died, whether within any of the said Presidencies or not, whether before or after the passing of this Act, and whether testate or intestate, and shall have left assets (whether moveable, immoveable, or both) within any of the said Presidencies, and the Administrator-General of such Presidency is satisfied that such assets do not exceed in the whole one thousand rupees in value, he may after the lapse of one month from the death if he thinks fit, or before the lapse of the said month, if he is requested so to do by writing under the hand of the executor or the widow or other person entitled to administer the effects of the deceased, grant to any person claiming otherwise than as a creditor to be entitled to a share of such

assets, certificates under his hand entitling the claimant to receive the property therein mentioned, belonging to the estate of the deceased, to a value not exceeding in the whole one thousand rupees :

No certificate to be granted where probate or administration taken out, or in respect of money in Government Savings Bank.

Provided that no certificate shall be granted under this section where probate of the deceased's will or letters of administration of his effects has or have been granted, or in respect of any sum of money deposited in a Government Savings Bank.

NOTE.—This section has been amended by Act IX of 1881.

**37.** If in cases falling within section thirty-six, no person claiming Grant of certificate to otherwise than as a creditor to be entitled to a share of the effects of the deceased obtains, within three months, a certificate from the Administrator-General under the same section, or letters of administration to the estate and effects of the deceased, and such deceased was not a Hindu, Muhammadan, Parsi, or Buddhist, or exempted under the Indian Succession Act, 1865, section three hundred and thirty-two, from the operation of that Act, the Administrator-General may administer the estate and effects without letters of administration, in the same manner as if such letters had been granted to him ;

and if he neglect or refuse to take upon himself the administration of the estate and effects, he shall, upon the application of a creditor and upon being satisfied of his title, grant a certificate in the same manner as if such creditor were entitled to a share of the effects of the deceased,

and such certificate shall have the same effect as a certificate granted under the provisions of the same section, and shall be subject to all the provisions of this Act which are applicable to such certificate :

Provided that the Administrator-General may, before granting such certificate, if he think fit, require the creditor to give reasonable security for the due administration of the estate and effects of the deceased.

NOTE.—As amended by Act IX of 1881.

**38.** The Administrator-General shall not be bound to grant any certificate under section thirty-six or section thirty-seven unless he be satisfied of the title of the claimant and of the value of the assets of the deceased either by the oath or affirmation of the claimant or by such other evidence as he requires.

Administrator-General not bound to grant certificate unless satisfied of claimant's title, &c.

NOTE.—As amended by Act IX of 1881.

**39.** A copy of any such certificate with a receipt annexed shall, when such copy and receipt are signed by the person to whom the certificate has been granted, be a full discharge for payment or delivery to him of the money or security for money therein mentioned, to the person paying or delivering the same :

Copy of certificate with receipt annexed, when signed by certificate-holder, to be a discharge.

but nothing in this Act shall preclude any executor or administrator of the deceased from recovering, from the person receiving the same, the amount remaining in his hands after deducting the amount of all debts or other demands lawfully paid or discharged by him in due course of administration.

Right of executor or administrator against certificate-holder.

And any creditor or claimant against the estate of the deceased shall be at liberty to recover his debt or claim out of the assets received by such person and remaining in his hands unadministered, in the same manner and to the same extent as if such person had obtained letters of administration to the estate of the deceased.

**40.** The Administrator-General shall not be bound to take out letters of administration to the estate of any deceased person on account of the effects in respect of which he grants any such certificate, but he may do so if he discover any fraud or misrepresentation made to him, or that the value of the estate exceeded one thousand rupees.

**41.** For every such certificate the Administrator-General shall be entitled to charge a fee calculated after the rate of three rupees in the hundred on the amount mentioned in the certificate.

*(d).—Expenses of the Administrator-General's Establishment.*

**42.** The Administrator-General shall defray all the expenses of the establishment necessary for his office, and all other charges to which the said office is subject, except those for which express provision is made by this Act.

*(e).—Accounts and Schedules.*

**43.** The Administrator-General of each of the said Presidencies shall enter into books to be kept by him for that purpose separate and distinct accounts of each estate, and of all such sums of money, bonds, and other securities for money, goods, effects and things as come to his hands, or to the hands of any person employed by him or in trust for him under this Act; and likewise of all payments made by him on account of such estate, and of all debts due by or to the same, specifying the dates of such receipts and payments respectively.

Such books shall be kept in the Administrator-General's office, and shall be open for the inspection of all such persons, practitioners in the said Courts and others, as may have occasion to inspect the same, at office hours, paying only such reasonable fee for the time being fixed by the Government and published in the official Gazette of the Presidency to which the same may relate.

**44.** The Administrator-General of each of the said Presidencies shall twice in every year, that is to say, on or before the first day of April, and on or before the first day of October, or on such other days as the Government, by any rules or orders to be published as aforesaid, may direct, exhibit and deliver, in the High Court at Calcutta, Madras, or Bombay, as the case may be,

*(a)* a schedule showing the gross amount of all sums of money received or paid by him on account of each estate in his charge, and the

balances during the period of six months ending severally on the thirty-first day of December and thirtieth day of June next before the day of delivering such schedule,

(b) a list of all bonds or other securities received on account of each of the said estates during the same period,

(c) a schedule of all administrations whereof the final balances have been paid over to the persons entitled to the same, during the same period, specifying the amount of such balances and the persons to whom paid.

Such schedules shall be filed on record in such High Court, and shall, within fourteen days afterwards, be published in the official Gazette of the Presidency by the Administrator-General ;

Schedules to be filed and published

and copies thereof in triplicate shall be delivered by such Administrator-General to the Government, and shall be sent by such Government to the Secretary of State for India, in order that such Secretary may, if he think fit, order the same to be deposited at the India Office for public inspection, and cause notices to be published in the *London Gazette* and other leading newspapers, that such schedules are open to inspection there, or make such other orders respecting the same as he thinks fit.

#### PART IV.

##### OF THE AUDIT OF THE ADMINISTRATOR-GENERAL'S ACCOUNTS.

45. The Government shall from time to time appoint auditors to examine the accounts of the Administrator-General at the times of the delivery of the said schedules, and also at any other time when the Government thinks fit.

Auditors to examine schedules, and report to Government

46. The auditors shall examine the schedules and accounts, and report to the Government—

(a) Whether they contain a full and true account of everything which ought to be inserted therein,

(b) whether the books which by this Act, or by any such general rules and orders as hereinafter mentioned, are directed to be kept by the Administrator-General, have been duly and regularly kept, and

(c) whether the assets and securities have been duly kept and invested and deposited in the manner prescribed by this Act, or by any such rules and orders to be made as aforesaid.

47. Every auditor shall have power to summon as well the Administrator-General as any other person whose presence he thinks necessary, to attend him from time to time; and to examine the Administrator-General or other person if he thinks fit, on oath or affirmation to be by him administered; and to call for all books, papers, vouchers and documents, which appear to him to be necessary for the purposes of the said reference.

If the Administrator-General or other person when summoned refuses, or, without reasonable cause, neglects to attend or to produce any book, paper, voucher or document so required, or attends and refuses to

be sworn or make an affirmation, or refuses to be examined, the auditors shall certify such neglect or refusal in writing to the High Court at the Presidency town ;

and every person so refusing or neglecting shall thereupon be punishable in like manner as if such refusal or neglect had been in contempt of the said High Court.

**48.** The costs and expenses of preparing and publishing the said schedules and copies thereof, and of every such reference and examination as aforesaid, shall be defrayed by all the estates to which such schedules or accounts relate.

Such costs and expenses, and the portion thereof to be contributed by each of the said estates, shall be ascertained and settled by the auditors, subject to the approval of the Government, and shall be paid out of the said estates accordingly by the Administrator-General.

**49.** If upon any such reference and examination the auditors see reason to believe that the said schedules do not contain a true and correct account of the matters therein contained, or which ought to be therein contained, or that the assets have not been duly kept and invested or deposited in the manner directed by this Act, or by any such rules and orders as aforesaid, or that the Administrator-General has failed to comply with the provisions and directions of this Act, or of any such rules and orders, they shall report accordingly to the Government.

**50.** The Government may refer every such report as last aforesaid to the consideration of the Advocate-General for the Presidency, who shall thereupon, if he think fit, proceed summarily against the defaulter or his executor or administrator in the High Court in the Presidency town, by petition for an account, or to compel obedience to this Act or to such rules and orders as aforesaid, or otherwise as he may think fit, in respect of all or any of the estates then or formerly under the administration of such defaulter ;

and the said Advocate-General may exhibit interrogatories to the said Administrator-General, executor or administrator (hereinafter called the defendant), who shall be bound to answer the same as fully as if a commission had been issued under the provisions of the Code of Civil Procedure for his examination upon the said interrogatories.

The Court shall have power upon any such petition to compel the attendance in Court of the defendant and any witnesses who may be thought necessary, and to examine them orally or otherwise as the said Court thinks fit, and to make and enforce such order or orders as the Court thinks just.

**51.** The costs, including those of the Advocate-General and of the reference to him, if the same be directed by the Court to be paid, shall be defrayed either by the defendant or out of the estates rateably as the said Court directs ; and whenever any costs are recovered from the defendant, the same shall be paid to the estates by which they have been

in the first instance contributed, and the Court may, if it think fit, order the defendant to receive his costs out of the said estates.

## PART V.

### OF THE COMMISSION OF THE ADMINISTRATOR-GENERAL.

**52.** The Administrator-General of each of the said Presidencies, Commission to be received by Administrators-General  
under any letters of administration granted to him in his official character, or under any probate granted to him of a will wherein he is named as executor by virtue of his office, or under any probates or letters of administration vested in him by section eight or section thirty-one, shall be entitled to receive a commission at the following rates respectively, namely:—

The Administrator-General of Bengal at the rate of three *per centum*, and the Administrator-General of Madras and Bombay respectively at the rate of five *per centum*, upon the amount or value of the assets which they respectively collect and distribute in due course of administration.

**53.** The last preceding section shall not apply to cases in which the property of an officer or soldier dying on service comes to the hands of the Administrator-General of any of the said Presidencies, under the ninth or the twelfth section of the Statute called "The Regimental Debts' Act, 1863;"  
Section 52 not to apply to property of officers and soldiers dying on service, coming to hands of Administrator-General.

and such Administrator-General shall not take a percentage on any such property exceeding three *per centum* on the gross amount coming to his hands after the passing of the Administrator-General's Act, 1865, if preferential charges as defined by the fourth section of the said Statute have been previously paid, or on the gross amount remaining in his hands after payment by him of such charges, as the case may be.  
Administrator General entitled to a commission of only three per cent on gross amount of such property.

**54.** The Administrator-General shall be entitled to reimburse himself for any payments made by him in respect of any estates in his charge, which a private administrator of such estate might have lawfully made; but save as aforesaid, the commission to which the Administrator-General of each of the said three Presidencies shall be entitled is intended to cover not merely the expense and trouble of collecting the assets, but also his trouble and responsibility in distributing them in due course of administration.  
What expenses, &c., commission is to cover.

It is therefore enacted that one-half of such commission shall be payable to and retained by such Administrator-General upon the collection of the assets, and the other half thereof shall be payable to the Administrator-General who distributes any assets in the due course of administration, and may be retained by him upon such distribution.  
How payable.

The amount of the commission lawfully retained by an Administrator-General upon the distribution of assets, shall be deemed a distribution in the due course of administration within the meaning of this Act,  
Commission retained to be deemed a distribution.

*Explanation.*—The carrying of assets to separate accounts in the books of the Administrator-General notified as hereinbefore provided, and the transfer of assets to the Official Trustee, shall each be deemed to be a distribution within the meaning of this section.

55. The Governor-General in Council may from time to time order the rate of commission hereinbefore authorized to be received by the Administrator-General of Bengal to be raised to any rate not exceeding five *per centum* upon the amount or value of the assets which he collects and distributes in due course of administration and again to be reduced.

The Governments of the Presidencies of Fort St. George and Bombay respectively may, with the sanction of the Governor-General in Council, from time to time order the aforesaid rate of commission hereby authorized to be received by the Administrators-General of Madras and Bombay respectively to be reduced and again to be raised :

Provided that the commission so to be received shall not at any time exceed five *per centum* of the assets collected, and that no person now holding the office of Administrator-General of Bengal, Madras, or Bombay shall, by any such order, be deprived of the right to receive and retain, for his own use, a commission at the rate of three *per centum* in respect of all assets collected and actually administered by him.

55 A. Notwithstanding anything hereinbefore contained, an Administrator-General of a Presidency obtaining probate or letters of administration operating in another Presidency shall be entitled to the same rate of commission in respect of the collection and distribution of assets collected in such Presidency as the Administrator-General of such Presidency would have been entitled to if such assets had been collected and distributed by him, and to no higher rate.

NOTE —The above section is added by Act IX of 1881.

56. No person other than the Administrator-General acting officially shall receive or retain any commission or agency charges for anything done as executor or administrator under any probate or letters of administration, or letters *ad colligenda bona*, which have been granted by the Supreme Court or High Court at Fort William in Bengal since the passing of Act No. VII of 1849 (*for the appointment of an Administrator-General in Bengal*), or by either of the Supreme or High Courts at Madras and Bombay since the passing of Act No. II of 1850 (*to amend and extend to Madras and Bombay Act No. VII of 1849*), or which have been or shall be granted by any Court of competent jurisdiction within the meaning of sections one hundred and eighty-seven and one hundred and ninety of the Indian Succession Act, 1865; but this enactment shall not prevent any executor or other person from having the benefit of any legacy bequeathed to him in his character of executor, or by way of commission or otherwise.

Bequest in favour of executors not affected.

## PART VI.

## MISCELLANEOUS.

Power to make rules.

**57.** The Government may from time to time make rules consistent with the provisions of this Act,

(a) for the safe custody of the assets and securities which come to the hands or possession of the Administrator-General,

(b) for the remittance to the India Office of all sums of money payable or belonging to persons resident in Europe, or in other cases where such remittances are required,

For remittance of money.  
For guidance of Administrator-General.

(c) generally for the guidance of the Administrator-General in the discharge of his duties;

and may by such rules amongst other things direct what books, accounts and statements, in addition to those mentioned in this Act, shall be kept by the Administrator-General, and in what form the same shall be kept, and what entries the same shall contain, and where the same shall be kept, and where and how the assets and securities belonging to the estates to be administered by such Administrator-General shall be kept and invested or deposited pending the administration thereof, and how and at what rate or rates of exchange any remittances thereof shall be made.

Unless any such rules are made and published, the rules now in force in each of the said Presidencies, so far as the same are not inconsistent with this Act, shall be of the same force and effect as if the same had been made and published hereunder.

NOTE.—In exercise of the powers conferred by Section 57, Clause (b) of the Administrator-General's Act, 1874, the Governor-General in Council is pleased to make the following Rule :—

*Rule.*—For the purpose of remitting to the India Office any sum of money payable or belonging to any person resident in Europe, or in other cases when such remittances are required, any Administrator-General of Bengal hereafter appointed under Section 5 of the Act, shall purchase bills of exchange payable in London at a time not more than six months from the date thereof drawn by such banks or firms as the Governor-General in Council may from time to time approve in this behalf. Every approval of a bank or firm for the purposes of the Rule shall be given by an order in writing signed by a Secretary to the Government of India, and shall continue in force for a period of one year from the date thereof or until revoked within such period by a like order.—(*Government of India No 2712, dated 30th August 1878*).

**58.** Such rules shall be published in the *Gazette of India*, the *Fort St. George Gazette*, or the *Bombay Government Gazette*, as the case may be, and the several Administrators-General shall obey and fulfil the same, and the same shall be a full authority and indemnity for all persons acting in pursuance thereof.

**59.** The Governor-General in Council may, from time to time, either by general rule, or by special order in a particular case, decide any question as to the time at which any commission accruing to the Administrator-General in his official capacity shall be deemed to have been payable; and such decision shall bind every Administrator-General and the estates held by him in his official capacity.

**60.** Any order made under this Act by any Court shall have the same effect and be executed in the same manner as a decree.



60 A. The Administrator-General may, whenever he desires, for the purposes of this Act, to satisfy himself regarding any question of fact, examine on oath or affirmation (which he is hereby authorised to administer or take) any person who is willing to be so examined by him regarding such question.

NOTE.—As enacted by Act IX of 1881.

61. Whoever, having been sworn or having taken an affirmation under this Act, makes upon any examination authorized by this Act, a statement which is false, and which he either knows or believes to be false, or does not believe to be true, shall be deemed to have intentionally given false evidence in a stage of a judicial proceeding.

62. All assets in the official charge of the Administrator-General of any of the said Presidencies, and appearing from the official books and accounts of the Ecclesiastical Registrar and of the Administrator-General of any of those Presidencies, or from the official books and accounts of any of those officers, to have been in official custody for a period of fifteen years or upwards without any claim thereto having been made and allowed, shall be transferred and paid to the Comptroller-General of Accounts or to the Accountant-General to the Government of Fort St. George or Bombay, as the case may be, and be carried to the account and credit of the Government of India for the general purposes of government ;

and the receipt of the said Comptroller-General or Accountant-General, as the case may be, shall be a full indemnity and discharge to the said Administrator-General for any such transfer or payment :

Provided that this Act shall not authorize the transfer or payment of any such proceeds as aforesaid, pending any suit heretofore or hereafter instituted in respect thereof.

63. If any claim be hereafter made to any part of the securities, monies, or proceeds carried to the account and credit of the Government of India under the provisions of this Act, and if such claim be established to the satisfaction of the Comptroller-General or the Accountant-General to the Government of Fort St. George or Bombay, as the case may be, the Government of India shall pay to the claimant the amount of the principal so carried to its account and credit, or so much thereof as appears to be due to the claimant.

If the claim be not established to the satisfaction of the said Comptroller-General or Accountant-General, as the case may be, the claimant may apply by petition to the High Court at the Presidency town against the Secretary of State for India, and after taking evidence either orally or on affidavit in a summary way as the Court thinks fit, the Court shall make such order on the petition for the payment of such portion of the said principal sum as justice requires, and such order shall be binding on all parties to the suit,

and the Court may direct by whom the whole or any part of the costs of each party shall be paid.

**64.** Whenever any person, other than a Hindu, Muhammadan, Parsi, or Buddhist, or a person exempted under the Indian Succession Act, 1865, section three hundred and thirty-two, from the operation of that Act, dies leaving assets within the limits of the jurisdiction of a District Judge, the District Judge shall report the circumstance without delay to the Administrator-General of the Presidency, stating the following particulars so far as they may be known to him :—

- (a) the amount and nature of the assets,  
 (b) whether or not the deceased left a will, and, if so, in whose custody it is,  
 and, on the lapse of one month from the date of the death,  
 (c) whether or not any one has applied for probate of the will of the deceased or letters of administration to his effects.

The District Judge shall retain the property under his charge, or appoint an officer under the provisions of the Indian Succession Act, 1865, two hundred and thirty-nine, to take and keep possession of the same until the Administrator-General has obtained letters of administration, or until some other person has obtained such letters or a certificate from the Administrator-General under the provisions of this Act, when the property shall be delivered over to the person obtaining such letters of administration or certificate, or, in the event of a will being discovered, to the person who may obtain probate of the will.

NOTE—The word "Parsi" is inserted in the above section by Act IX of 1881.

**65.** Nothing in this Act is intended to require the Administrator-General to take proceedings to obtain letters of administration to the estate or effects of any officer or soldier or other person subject to any Articles of War, unless when the Administrator-General is duly authorized or required so to do by the Military Secretary to Government, or by a Committee of Adjustment or other officers or persons acting under any law for the time being in force relating to the payment of regimental debts ;

nor is anything in this Act contained intended to interfere with or alter the provisions of any Act of Parliament for regulating the payment of regimental debts, and the distribution of the effects of officers and soldiers dying in the service of Her Majesty in India, or of any Articles of War.

**66.** Nothing contained in the Indian Succession Act, 1865, or the Indian Companies' Act, 1866, shall be taken to supersede or affect the rights, duties, and privileges of the Administrators-General and officiating Administrators-General of Bengal, Madras, and Bombay respectively.

And nothing contained in the Indian Succession Act, 1865, or in this Act, or in the said Act No. XXIV of 1867, shall be deemed to affect, or to have affected, any provisions for the time being in force relating to the moveable property under two hundred rupees in value of persons dying intestate within any of the Presidency towns, which shall be or has been taken charge of by the Police for the purpose of safe custody.

District Judge in certain cases to take charge of property of deceased persons, and to report to Administrator-General.

Act not to require administration of estates of soldiers, unless Administrator-General authorized by Military Secretary or Committee of Adjustment.

Indian Succession Act and Indian Companies' Act not to affect Administrator-General.

Saving of provisions of Presidency Police Acts as to petty estates.

**ACT No. III of 1874.***(Passed on the 24th February 1874).*

An Act to explain and amend the law relating to certain Married Women, and for other purposes.

Whereas it is expedient to make such provision as hereinafter appears for the enjoyment of wages and earnings by women married before the first day of January 1866, and for insurances on lives by persons married before or after that day :

Preamble.

And whereas by the Indian Succession Act, 1865, section four, it is enacted that no person shall by marriage acquire any interest in the property of the person whom he or she marries, nor become incapable of doing any act in respect of his or her own property, which he or she could have done, if unmarried :

And whereas by force of the said Act all women to whose marriages it applies are absolute owners of all property vested in, or acquired by, them, and their husbands do not by their marriage acquire any interest in such property, but the said Act does not protect such husbands from liabilities on account of the debts of their wives contracted before marriage, and does not expressly provide for the enforcement of claims by or against such wives ;

It is hereby enacted as follows :—

*I.—Preliminary.*

Short title.

1. This Act may be called “The Married Women’s Property Act, 1874.”

2. It extends to the whole of British India, and, so far as regards subjects of Her Majesty, to the dominions of Princes and States in India in alliance with Her Majesty.

But nothing herein contained applies to any married woman who at the time of her marriage professed the Hindu, Muhammadan, Buddhist, Sikh or Jaina religion, or whose husband, at the time of such marriage, professed any of those religions.

And the Governor-General in Council may from time to time, by order, either retrospectively from the passing of this Act or prospectively, exempt from the operation of all or any of the provisions of this Act the members of any race, sect, or tribe, or part of a race, sect, or tribe, to whom he may consider it impossible or inexpedient to apply such provisions.

The Governor-General in Council may also revoke any such order, but not so that the revocation shall have any retrospective effect.

All orders and revocations under this section shall be published in the *Gazette of India*.

The fourth section of the said Indian Succession Act shall not apply, and shall be deemed never to have applied, to any marriage one or both of the parties to which professed at the time of the marriage the Hindu, Muhammadan, Buddhist, Sikh, or Jaina religion.

3. *Repealed by Act XII of 1876.*

*II.—Married Women's Wages and Earnings.*

Married women's earnings to be their separate property.

4. The wages and earnings of any married woman, acquired or gained by her after the passing of this Act, in any employment, occupation, or trade carried on by her, and not by her husband,

and also any money or other property so acquired by her through the exercise of any literary, artistic, or scientific skill,

and all savings from and investments of such wages, earnings, and property,

shall be deemed to be her separate property, and her receipts alone shall be good discharges for such wages, earnings, and property.

*III.—Insurances by Wives and Husbands.*

5. Any married woman may effect a policy of insurance on her own behalf and independently of her husband; and the same and all benefit thereof, if expressed on the face of it to be so effected, shall enure as her separate property, and the contract evidenced by such policy shall be as valid as if made with an unmarried woman.

6. A policy of insurance effected by any married man on his own life, and expressed on the face of it to be for the benefit of his wife, or of his wife and children, or any of them, shall enure and be deemed to be a trust for the benefit of his wife, or of his wife and children, or any of them, according to the interest so expressed, and shall not, so long as any object of the trust remains, be subject to the control of the husband, or to his creditors, or form part of his estate.

When the sum secured by the policy becomes payable, it shall, unless special trustees are duly appointed to receive and hold the same, be paid to the Official Trustee of the Presidency in which the office at which the insurance was effected is situate, and shall be received and held by him upon the trusts expressed in the policy, or such of them as are then existing.

And in reference to such sum he shall stand in the same position in all respects as if he had been duly appointed trustee thereof by a High Court, under Act No. XVII of 1864 (to constitute an Office of Official Trustee), section ten.

Nothing herein contained shall operate to destroy or impede the right of any creditor to be paid out of the proceeds of any policy of assurance which may have been effected with intent to defraud creditors.

*IV.—Legal proceedings by and against Married women.*

7. A married woman may maintain a suit in her own name for the recovery of property of any description which, by force of the said Indian Succession Act, 1865, or of this Act, is her separate property; and she shall have, in her own name, the same remedies, both civil and criminal, against all persons, for the protection and security of such property, as if she were unmarried, and she shall be liable to such suits, processes, and orders in respect of such property as she would be liable to if she were unmarried.

8. If a married woman (whether married before or after the first day of January 1866) possesses separate property, and if any person enters into a contract with her with reference to such property, or on the faith that her obligation arising out of such contract will be satisfied out of her separate property,

such person shall be entitled to sue her, and, to the extent of her separate property, to recover against her whatever he might have recovered in such suit had she been unmarried at the date of the contract and continued unmarried at the execution of the decree :

Provided that nothing herein contained shall affect the liability of a husband for debts contracted by his wife's agency, express or implied.

NOTE.—The proviso is as amended by Act VI of 1888.

*V.—Husband's liability for Wife's debts.*

9. A husband married after the thirty-first day of December 1865 shall not, by reason only of such marriage, be liable to the debts of his wife contracted before marriage, but the wife shall be liable to be sued for, and shall, to the extent of her separate property, be liable to satisfy such debts as if she had continued unmarried :

Provided that nothing contained in this section shall affect any suit instituted before the passing of this Act, nor invalidate any contract into which a husband may, before the passing of this Act, have entered in consideration of his wife's ante-nuptial debts.

## ACT No. IV of 1874.

(Passed on the 24th February 1874).

An Act to control recruiting in British India for the service of Foreign States.

Whereas it is expedient that the Governor-General in Council should exercise full control over recruiting in British India for the service of Foreign States ; It is hereby enacted as follows :—

1. This Act may be called “The Foreign Recruiting Act, 1874”:

It extends to the whole of British India.

2. In this Act—

“Foreign State” includes any person or persons exercising or assuming to exercise the powers of Government in or over any country, colony, province, or people beyond the limits of British India.

3. If any person is, within the limits of British India, obtaining or attempting to obtain recruits for the service of any Foreign State in any capacity, the Governor-General in Council may, by order in writing signed by a Secretary to the Government of India, either prohibit such person from so doing, or permit him to do so subject to any conditions which the Governor-General in Council thinks fit to impose.

4. The Governor-General in Council may from time to time, by general order notified in the *Gazette of India*, either prohibit recruiting for the service of any Foreign State, or impose upon such recruiting any conditions which he thinks fit.
- Power to impose conditions.
5. The Governor-General in Council may rescind or vary any order made under this Act in such manner as he thinks fit.
- Power to rescind or vary orders.
6. Whoever, in violation of the prohibition of the Governor-General in Council, or of any condition subject to which permission to recruit may have been accorded,
- Offences.
- (a) induces or attempts to induce any person to accept or agree to accept or to proceed to any place with a view to obtaining any commission or employment in the service of any Foreign State, or
- (b) knowingly aids in the engagement of any person so induced, by forwarding or conveying him or by advancing money or in any other way whatever,
- shall be liable to imprisonment for a term which may extend to seven years, or to fine to such amount as the Court thinks fit, or to both.
7. Any offence against this Act may be enquired into and tried, as well in any district in which the person accused may be found, as in any district in which it might be enquired into and tried under the provisions of the Code of Criminal Procedure.
- Place of trial.

## ACT No. IX of 1874.

(Passed on the 7th April 1874).

An Act to consolidate and amend the law relating to European Vagrancy.

Whereas it is expedient to consolidate and amend the laws relating to persons of European extraction who wander in a destitute condition throughout India ; It is hereby enacted as follows :—

Preamble.

### PART I.

#### PRELIMINARY.

1. This Act may be called "The European Vagrancy Act, 1874 :"

Short title.

It extends to the whole of British India and to the dominions of Princes and States in India in alliance with Her Majesty ;

Local extent.

And it shall come into force at once : Provided that sections four to sixteen (both inclusive), nineteen, twenty, twenty-four and twenty-nine shall not come into force in Coorg, or in the Andaman and Nicobar Islands, or in any of the dominions of the Princes and States in India in alliance with Her Majesty not situ-

Commencement.

ate within the limits of any Presidency, Lieutenant-Governorship, or Chief Commissionership in British India, until such day or respective days as the Governor-General in Council from time to time, by notification in the *Gazette of India*, appoints in this behalf.

2. Acts No. XXI of 1869 (*to provide against European Vagrancy*) and No. XXVIII of 1871 (*to amend the European Vagrancy Act, 1869*) are hereby repealed.

But all appointments and orders made, work-houses provided, certificates given, powers conferred, rules prescribed, and exemptions granted under the former Act, shall be deemed to have been respectively made provided, given, conferred, prescribed, and granted under this Act.

Interpretation-clause.

3. In this Act—

“Person of European extraction.”

“Person of European extraction” includes—

(a) persons born in Europe, America, the West Indies, Australia, Tasmania, New Zealand, Natal, or the Cape Colony,

(b) the sons and grandsons of such persons,

but does not include persons commonly called Eurasians or East Indians :

“Vagrant” means a person of European extraction found asking for alms, or wandering about without any employment or visible means of subsistence :

“Master of a ship.”

“Master of a ship” includes any person in charge of a decked vessel :

And in Parts III and V of this Act “Magistrate” means, within the limits of the towns of Calcutta, Madras, and Bombay, a Magistrate of Police, and, outside those limits, a person exercising powers under the Code of Criminal Procedure not less than those of a Magistrate of the second class.

## PART II.

### PROCEDURE.

4. Any Police officer may, within the limits of the towns of Calcutta, Madras and Bombay, require any person who is apparently a vagrant to accompany him or any other Police officer to, and to appear before, the nearest Magistrate of Police, and may, without those limits, require any such person to accompany him or any other Police officer to, and to appear before, the nearest Justice of the Peace exercising the powers of a Magistrate of the first class under the Code of Criminal Procedure.

5. The Magistrate of Police or Justice shall in such case, or in any other case where a person apparently a vagrant comes before him, make a summary inquiry into the circumstances and character of the apparent vagrant; and if he is satisfied that such person is a vagrant, he shall record in his office a declaration to that effect.

\* If he is further of opinion that the vagrant is not likely to obtain employment at once, or if he has reason to believe that a declaration of vagrancy has on any former occasion been recorded in respect of such vagrant, he shall require the vagrant to go to a Government work-house, and shall draw up an order to that effect.

The vagrant shall then be placed in charge of the Police for the purpose of being forwarded to the work-house, and the said order shall be a sufficient authority to the Police for retaining him in their charge while he is on his way to the work-house, and to the Governor of the work-house for receiving and detaining such vagrant.

6. Where the officer making the inquiry mentioned in section five is of opinion that the vagrant is likely to obtain employment in any place subject to the Local Government, or (when the vagrant is in any part of the dominions mentioned in section one) in any place subject to any adjacent Local Government, such officer may in his discretion forward the vagrant to such place in charge of the Police, and draw up an order to that effect.

Such order shall be a sufficient authority to the Police for retaining the vagrant in their charge while he is on his way to such place of employment.

7. Upon his arrival at the place of employment, the vagrant shall be taken before the nearest Magistrate of Police or Justice of the Peace exercising powers as aforesaid, to whom the order for transmission shall be delivered.

Such officer shall thereupon, to the best of his ability, assist the vagrant in seeking employment, and may in the meantime, if he think fit, keep the vagrant in the charge of the Police.

Should the vagrant fail to obtain suitable employment within a reasonable time not exceeding fifteen days from such arrival, such officer shall forward him to a Government work-house in the manner provided by section five.

8. Every person while in charge of the Police, whether before inquiry as to his vagrancy, or while he is on his way, under section five, to the work-house, or, under section six, to a place of employment, shall be entitled to an allowance for his subsistence at the rate of eight annas per diem.

The Magistrate of Police or Justice, before whom any vagrant is taken under section seven, may, if he think fit, order the vagrant to receive a similar allowance while he is seeking employment.

The Local Government shall cause such allowance to be paid out of such funds at its disposal and in such manner as it may, from time to time direct.

NOTE.—The cost of allowances paid to European vagrants under this section should be charged, until further orders, to judicial contingencies.—(*Punjab Government Circular No. 15—1,405 dated 4th October 1869*).

See also Note (a), Rule IV, printed at the end of the Act.



**9. Any Magistrate of Police or Justice of the Peace exercising**  
Power to give certificates. powers as aforesaid may, on being satisfied that any person of European extraction is not likely to become a vagrant, give such person a certificate under his hand stating that for a certain time (mentioning it) not exceeding six months from the date of the certificate, and within certain limits (mentioning them), nothing in sections four, five, six and seven shall apply to the holder of such certificate; and thereupon, so long as the certificate remains in force, nothing in sections four, five, six and seven, shall apply to such person within such limits as aforesaid.

Every such certificate shall be in the form set forth in the first schedule to this Act annexed, or as near thereto as circumstances will admit.  
Form of certificate.

NOTE.—See Note (a), Rule V, at the end of the Act.

**10. The Local Government may, from time to time, by notification in**  
Power to invest certain officials with jurisdiction of Justices under sections 5, 7, 8 and 9. the official Gazette, invest any Justice of the Peace, District Superintendent of Police, or Assistant District Superintendent of Police with the jurisdiction and powers conferred by this Part on a Justice of the Peace exercising powers as aforesaid.

NOTES —(a). The Lieutenant-Governor has, under the provisions of this section, vested certain Police Officers with the jurisdiction and powers conferred by Part II on a Justice of the Peace exercising full powers.—(*Notification No. 54, dated 11th January 1870—Punjab Gazette of 13th idem, p. 16*).

(b). It was subsequently notified that the said powers would come into force only from such date as the Governor-General in Council should extend the said Part II to the Punjab and its dependencies in the manner provided in section 2.—(*Notification No. 135, dated 27th January 1870—Punjab Gazette of 3rd February 1870, p. 72*).

(c). In the exercise of the power vested in him by the last Clause of Section 2 of the European Vagrancy Act, 1869, his Excellency the Governor-General in Council is pleased to extend Sections 4 to 16 (both inclusive) 19, 20, 24, and 29 of the Act to the Punjab, as well as to the dominions of the Princes and States in alliance with Her Majesty, situated within the limits of that Province, with effect from the date of the republication of this Notification in the local Gazette of the Government of the Punjab.—(*Government of India Notification No. 900, dated 22nd February 1872—Punjab Gazette of 29th idem, p. 274*).

(d). The above Notifications were issued under Act XXI of 1869, Section 2 of which provided that only certain portions of the Act were to extend to the whole of British India and the rest of the Act was to come into operation from such date as it was extended by notification of the Governor-General in Council. Under Section 1, Act IX of 1874 extends to the whole of British India from the date on which it was passed

### PART III.

#### GOVERNMENT WORK-HOUSES.

**11. The Local Government, with the previous sanction of the**  
Provision of Government work-houses. Governor-General in Council, may provide work-houses with their necessary furniture and establishment, at such places as it may think proper, for the temporary reception of vagrants,

or may, by writing under the hand of a Secretary to such Government, certify any building, or part of a building not provided as a work-house under the former part of this section, to be fit for a work-house for the purposes of this Act. Every such certificate shall be published in the local official Gazette, and thereupon such building or part of a building

shall, until the Local Government otherwise orders, be deemed a Government work-house under this Act.

NOTE.—The Lieutenant-Governor has, with the sanction of the Governor-General in Council, declared the European Debtors' Prison at Lahore a workhouse for the purposes of this Act.

The work-house is to be under the general control of the Deputy Commissioner of Lahore. —(Notification No. 772, dated 6th March 1872—*Punjab Gazette* of 7th idem, p. 294).

The Local Government shall allow the same scale of diet for the support of vagrants received in such work-houses as is for the time being allowed for Europeans confined in the local prisons or penitentiaries.

Scale of diet

12. Every such work-house shall be under the immediate charge of a Governor, who shall be appointed, and may be suspended or removed, by the Local Government.

Superintendence of work-houses.

Every such Governor shall, if the Local Government thinks fit, be subject to the orders of a Committee of Management appointed from time to time by such Government, or, in the absence of a Committee, to the orders of such officer as the Local Government from time to time appoints in this behalf.

13. Every such Governor may order that any vagrant admitted to the work-house under his charge shall be searched, and that the vagrant's bundles, packages, and other effects shall be inspected, and may direct that any money then found with or on the vagrant shall be applied (subject to the orders of the Local Government) towards the expense of carrying this Act into execution, and may order that all or any of the said effects shall be sold, and that the produce of the sale be applied as aforesaid, but subject to the like orders.

Search of vagrants.

14. Vagrants admitted to work-houses under this Act shall be subject to such rules of management and discipline as may, from time to time, be prescribed by the Local Government with the previous sanction of the Governor-General in Council.

Discipline.

The Local Government may authorise any Governor of a work-house to punish (under or not under the supervision and direction of a Committee of Management, as the Local Government thinks fit) any vagrant who knowingly disobeys or neglects any such rule with any one of the following punishments (namely)—

(a) solitary confinement within the work-house for any time not exceeding seven days;

(b) solitary confinement within the work-house for any time not exceeding three days upon a diet reduced to such extent as the Local Government may prescribe ;

(c) hard labour for any time not exceeding seven days ;

(d) reduction of diet to such extent as the Local Government may prescribe for any time not exceeding five days ;

or in lieu of any such punishment any such vagrant may, on conviction before a Magistrate of such disobedience or neglect, be punishable with rigorous imprisonment in jail for a term which may extend to three months.

15. The Governor and the Committee of Management (if any) of every such work-house shall use his and their best endeavours to obtain outside the work-house suitable employment for the vagrants admitted thereto.

When such employment is obtained, any such vagrant refusing or neglecting to avail himself thereof, shall, on conviction before a Magistrate, be punishable with rigorous imprisonment for a term which may extend to one month.

#### PART IV.

##### REMOVAL FROM INDIA.

16. If after the lapse of a reasonable time no suitable employment is obtainable for any such vagrant, the Local Government may either (when he has entered into such agreement as hereinafter mentioned) cause him to be removed from British India in manner hereinafter provided, the cost of such removal being paid by Government;

or it may cause sections twenty-three and thirty to be read to him and may then release him.

NOTES—(a).—Deputy Commissioners are authorized to exercise the powers described in this section (*vide* note, section 27).

(b).—See Note (a), Rule VII, at the end of the Act

17. Any vagrant or other person of European extraction may enter into an agreement in writing with the Secretary of State for India in Council, binding himself—

(a) to proceed to such port in British India as shall be mentioned in the agreement;

(b) there to embark on board such ship and at such time as is directed by an officer appointed in this behalf by the Local Government of the territories in which such port is situate, for the purpose of being removed from India at the expense of the said Secretary of State in Council;

(c) to remain on board such ship until she has arrived at her port of destination; and

(d) not to return to India until five years have elapsed from the date of such embarkation.

Every such agreement shall be in the form set forth in the second schedule to this Act annexed, or as near thereto as circumstances admit.

NOTE.—See Note (a), Rules VIII, IX, and X, at the end of the Act.

18. The Local Government of the territories in which the said port is situate, may enter into such contracts for conveyance or otherwise, and perform such other acts as may be necessary to carry out such agreement on the part of the said Secretary of State in Council.

#### PART V.

##### PENALTIES

19. Any person refusing or failing to accompany a Police officer to, or to appear before, a Magistrate of Police or Justice of the Peace, for the purpose of preliminary inquiry, when required so to do under section four, may be

arrested without warrant, and shall be punishable, whether he be or be not an European British subject, on conviction before a Magistrate, with imprisonment for a term which may extend to one month, or with fine, or with both.

And any person who, when required under section four to accompany a Police officer to, or to appear before, a Magistrate of Police or Justice of the Peace, commits an offence punishable under section three hundred and fifty-three of the Indian Penal Code, may, whether he be or be not an European British subject, be tried by a Magistrate for such offence.

**20.** Any vagrant who escapes from the Police while committed to their charge under the orders specified in sections five and six,

or who leaves a work-house, under this Act, without permission from the Governor,

NOTE —See Rule 1 Note (c), at the end of the Act

or who having with such permission left a work-house for a limited time or a specified purpose, fails to return on the expiration of such time or when such purpose has been accomplished or proves to be impracticable,

shall for every such offence be punishable, on conviction before a Magistrate, with rigorous imprisonment for a term which may extend to two years.

**21.** Any person entering into an agreement under section seventeen, and failing to proceed in pursuance thereof to the port therein mentioned,

or refusing to embark when directed so to do under the same section,

or escaping from the ship in which he has so embarked before she has reached her port of destination,

shall for every such offence be punishable, whether he be or be not an European British subject, on conviction before a Magistrate, with rigorous imprisonment for a term which may extend to six months.

**22.** Any person returning to India within five years of the date of his embarkation pursuant to any agreement entered into under section seventeen, unless specially permitted so to do by the Secretary of State for India, shall, for every such offence, be punishable, whether he be or be not an European British subject, on conviction before a Magistrate, with rigorous imprisonment for a term which may extend to two years.

**23.** Any person of European extraction found asking for alms when he has sufficient means of subsistence,

or asking for alms in a threatening or insolent manner,

or continuing to ask for alms of any person after he has been required to desist,

shall be punishable, whether he be or be not an European British subject, on conviction before a Magistrate, with rigorous imprisonment for a term not exceeding one month for the first offence, two months for the second, and three months for any subsequent offence.

**24.** Every person imprisoned under section nineteen, twenty, twenty-one, twenty-two, or twenty-three, shall, at the end of his term of imprisonment, be placed before the nearest Magistrate of Police or Justice of the Peace exercising powers as aforesaid, who shall, if he think fit, forthwith deal with him in the manner prescribed by sections five and six.

Procedure on close of imprisonment.

The order of transmission shall certify the fact of the previous conviction.

**25.** Every master of a ship landing or allowing to land in any part of British India any person of European extraction who has been convicted in any other part of Her Majesty's dominions of felony, or of an offence which, if committed in England, would be felony, shall, on conviction before a Magistrate, be liable, for every such person so landed or allowed to land, to pay a fine not exceeding five hundred rupees and not less than one hundred rupees, and in default of payment, to imprisonment for any term not exceeding two months,

Penalty on shipmaster bringing European convict to India.

unless the defendant satisfy the Magistrate by evidence (which the defendant is hereby declared competent to give), that he had made due enquiry as to the person so landed, or allowed to land, and that he had no reason to believe that such person had been convicted as aforesaid.

The Governor-General in Council may from time to time, by notification in the *Gazette of India*, exempt from the operation of the former part of this section the master of any class of ships, on such terms as to the Governor-General in Council seem fit, and either in respect of all or of any of the persons on board such ships.

Power to exempt certain shipmasters.

The Governor General in Council may in like manner revoke any exemption made under this section.

NOTE.—In exercise of the power vested in him by section 25, the Governor-General in Council has exempted masters of steam or sailing vessels belonging to companies or registered owners from the operation of the first part of that section, in respect of first class passengers on board such vessels.—(No. 4,830 dated 20th October 1870—*Gazette of India of 22nd idem*, p. 723).

**26.** All fines imposed under this Act may be recovered, if for offences committed outside the local limits of the towns of Calcutta, Madras and Bombay, in the manner prescribed by the Code of Criminal Procedure, and if for offences committed within those limits, in the manner prescribed by any Act regulating the Police of such towns in force for the time being.

Recovery of fines.

All fines recovered under this Act shall be paid to the credit of the Government of India, or as the Governor-General in Council from time to time directs.

Payment of fines.

**27.** All prosecutions under this Act may be instituted and conducted by such officer as the Local Government from time to time appoints in this behalf.

Prosecutions.

NOTE.—With reference to Section 27, His Honor is pleased to authorize District Superintendents of Police and Assistant District Superintendents of Police to institute and conduct prosecutions under the Act; and all Deputy Commissioners are authorized to exercise the powers described in Section 16.—(*Circular No. 15—1405, dated 4th October 1869, from Secretary to Government, Punjab, to all Commissioners and District Officers*)

See also Note (c), Rule 1, at the end of the Act.

**28.** In imposing penalties under this Part and Part III of this Act, no person shall exceed the limits of jurisdiction prescribed for him by the Code of Criminal Procedure in the case of offenders not being European British subjects.

Limits of jurisdiction

**29.** No proceeding under this Act shall be deemed invalid by reason only that the Magistrate of Police or Justice, before whom a person, apparently a vagrant, was required to appear, or before whom a person was placed under section twenty-four, was not the nearest.

Validity of proceedings where Magistrate is not the nearest

## PART VI.

### MISCELLANEOUS.

**30.** Any European British subject who, upon the summary enquiry mentioned in section five, has been determined to be a vagrant, or who has been convicted under section twenty-two or section twenty-three, shall, so long as he remains in India, be subject, beyond the limits of the said towns, to the provisions of the Code of Criminal Procedure (other than those contained in Chapter XXXVIII of the same Code) applicable to an European not being a British subject.

Deprivation of privileges of European British subjects under Criminal Procedure Code

If from any cause he is committed or held to bail by a Justice of the Peace to take his trial before a High Court, he shall not be at liberty to object to the jurisdiction of such Justice of the Peace or High Court on the ground of any thing contained in the former part of this section.

Save as aforesaid nothing herein contained shall be deemed to confer jurisdiction over European British subjects on Magistrates, who, if this Act had not been passed, would have had no such jurisdiction.

**31.** Whenever any person of European extraction lands in India, or, being a non-commissioned officer or soldier in Her Majesty's Army, leaves that Army in India, under an engagement to serve any other person, or any Company, Association, or body of persons in any capacity,

Liability of importers of Europeans or employers of soldiers becoming vagrants.

and whenever a sailor of European extraction, not being a British subject, is discharged from his ship in any British Indian port,

and becomes chargeable to the State as a vagrant within one year after his arrival in India or leaving the Army, or discharge from his ship, as the case may be, then the person, or Company, Association, or body, to serve whom he has so landed in India or left the Army, or, in the case of a sailor, the person who is at the date of the discharge the owner or agent of the ship from which the sailor has been so discharged, shall be liable to pay to the Government the cost of his removal under this Act, and all other charges incurred by the State in consequence of his becoming a vagrant.

Such costs and charges shall be recoverable by suit as if an express agreement to repay them had been entered into with the Secretary of State for India in Council, by the person, Company, Association, body, owner, or agent chargeable.

**32.** When any person of European extraction lands in India, being or having been during his passage to India, or from one Indian port to another, in charge of, or in attendance upon, any animal, and becomes chargeable to the State as a vagrant within one year after his arrival in India, then

the consignee of such animal,  
or the agents in India for the sale of such animal,  
or, if such consignee or agents cannot be found,  
the agent to whom the ship in which such animal arrived in India was consigned,

shall be liable to pay to the Government the cost of such person's removal under this Act, and all other charges incurred by the State in consequence of his becoming a vagrant.

Any such consignee or agent shall be entitled to charge the consignor or principal for any payment to the Government under this section.

For the purposes of this section 'consignee' includes any person who undertakes to dispose of such animal for the benefit of the consignor, and

'Agent' includes any person who undertakes the agency of such ship, though it may not have been consigned to him.

**33.** In any proceeding under this Part, a certified copy of the declaration recorded under section five shall be *prima facie* evidence that the European British subject named therein has been, upon the summary enquiry mentioned in that section, determined to be and that he was at the date of the declaration a vagrant.

**34.** The powers and duties conferred and imposed by sections sixteen and eighteen on a Local Government, may be exercised and performed by such class of officers as the Local Government from time to time, by notification in the official Gazette, appoints in this behalf.

NOTE.—*Vide* note, Section 16

**35.** The powers and duties conferred and imposed by this Act on Magistrates, Justices of the Peace exercising the powers of a Magistrate of the first class, and Police Officers respectively, may, in places beyond the limits of British India, be exercised and performed by such persons respectively as the Governor-General in Council from time to time, by notification in the *Gazette of India*, appoints in this behalf.

**36.** The Governor-General in Council may from time to time make rules, consistent with this Act, for the guidance of officers in matters connected with its enforcement.

All such rules shall be published in the *Gazette of India*, and shall thereupon have the force of law.

## THE FIRST SCHEDULE.

(See Section 9).

Whereas *E. F.*, of \_\_\_\_\_, a person of European extraction and holder of this certificate has appeared before me and satisfied me that he is not likely to become a vagrant within the meaning of the European Vagrancy Act, 1874, these are to certify that for the space of \_\_\_\_\_ months from the date hereof and within the Province [or District] of \_\_\_\_\_ nothing in sections four, five, six, and seven of the same Act shall be deemed to apply to him, unless he is found asking for alms, in which case this certificate shall be void.

(Signed) *G. H.*

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 18\_\_\_\_

Magistrate of Police for the Town of \_\_\_\_\_ or Justice of the Peace for \_\_\_\_\_ exercising the powers of a Magistrate of the \_\_\_\_\_ class \_\_\_\_\_

## THE SECOND SCHEDULE.

(See Section 17)

Articles of Agreement made this \_\_\_\_\_ day of \_\_\_\_\_ 18\_\_\_\_ between the Secretary of State for India in Council of the one part and *C. D.* of, &c., [*the vagrant*] of the other part; Each of the parties hereto (so far as relates to the acts on his own part to be performed) hereby agrees with the other of them as follows:—

1. The said *C. D.* shall proceed forthwith to the port of [*the port of embarkation*].
2. The said *C. D.* shall there embark on board such ship and at such time as an officer appointed in this behalf by the Local Government shall direct.
3. The said *C. D.* shall remain on board such ship until she shall have arrived at her port of destination.
4. The said *C. D.* shall not return to India until five years shall have elapsed from the date of such embarkation, unless specially permitted so to return by the said Secretary of State.
5. The said Secretary of State in Council shall defray the cost of the transit of the said *C. D.* to the said port, and of his lodging and subsistence during such transit and during his detention (if any) at the same port, and shall contract with the owner of the said ship, or his agent, for the passage of the said *C. D.* on board the said ship, and for his subsistence during the voyage for which he shall embark as aforesaid.

In witness whereof *A. B.* (by order of the Governor-General of India in Council [or, the Governor of \_\_\_\_\_ in Council or the Lieutenant-Governor of \_\_\_\_\_, or the Chief Commissioner of \_\_\_\_\_], on behalf of the said Secretary of State in Council), and the said *C. D.* have hereunto set their hands the day and year first above written.

NOTES.—(a). In the exercise of the power vested in him by Section 34\* of Act XXI of 1869 (an Act to provide against European Vagrancy), His Excellency the Governor-General in Council is pleased to make the following Rules for the guidance of Officers in the administration of the Act:—

I.—The expression “person of European extraction” includes, for the purposes of the Act and these Rules, (1) persons born in Europe, America, the West Indies, Australia, and New Zealand; and (2) the legitimate son of a father and grandson of a grandfather so born.

II.—For the arrest and custody of vagrants, European or Eurasian Police Officers shall whenever it may be practicable, be employed in preference to Native Police Officers.

III.—Whenever any person, apparently a vagrant, refuses or fails to comply with any requisition made by a Police Officer under Section 4 of the Act,

whenever any person of European extraction commits an offence under Section 23 of the Act in view of a Police Officer,

and whenever any Police Officer has reason to think that such offence has been, or is being, committed,

the person so refusing, failing, or offending, may be forthwith arrested, without warrant, by the Police Officer, for the purpose of being produced in the usual manner before the Officer empowered to deal with the case.

IV.—The “subsistence allowance” of the vagrant shall not ordinarily be made over to him, but shall be kept and disbursed on his account by the Police or other Officer in whose custody he is for the time being.

V.—No certificate shall be given under Section 9, unless there be good ground for believing that the person applying for it is *bonâ fide* in search of employment, has a fair chance of obtaining it, and is of quiet and orderly behaviour.



VI.—The certificates shall be printed on parchment or paper of very durable character and shall be in English, with translations in the two principal Vernacular languages of the territories under the Local Government.

VII.—The time allowed under Section 16 for search after employment, shall not ordinarily exceed two months, and shall not in any case exceed six months.

VIII.—In the Presidency Towns, the Commissioner of Police, and elsewhere, Magistrates with full powers, being also Justices of the Peace, shall be competent to act on behalf of the Secretary of State in Council in making agreements under Section 17 \*

IX.—All such agreements shall be executed in duplicate, and the Officer executing on behalf of the Secretary of State in Council shall retain one of the copies

X.—When an agreement has been entered into by a vagrant under Section 17, he shall be forwarded, along with the original agreement, in the charge of a Police Officer to the Officer at the port of embarkation who is empowered by the Local Government to receive vagrants; and thereafter, and until his embarkation, he shall remain in the custody of that Officer, or of such other officer as the Local Government empowers in this behalf.

He shall during such time be entitled to subsistence-allowance at eight annas per diem to be disbursed as directed in Rule IV

XI.—Local Governments within whose jurisdiction ports are situated shall make all necessary arrangements for the reception and custody of vagrants sent for deportation by other Local Governments or authorities in the interior. They will from time to time, as may be necessary, give notice of such arrangements to the forwarding authorities

XII.—Road expenses shall be provided by the forwarding authority. All future expenses incurred in proceedings under Chapter IV of the Act, shall be defrayed by the Local Government of the port of embarkation on account of the Secretary of State in Council

XIII.—No agreement for deportation shall be entered into with any person of European extraction born in this country, and who has never been out of it, unless he satisfies the Local Government that he is likely to gain a livelihood in some place out of India.

XIV.—The Officers empowered to direct the deportation of vagrants will see that no unnecessary time is lost for providing passage for those who have entered into agreements to be deported. As a rule Europeans should be sent to Europe, Americans to America, West Indians to the West Indies, Australians to Australia, and New Zealanders to New Zealand. But the local authorities will exercise their discretion in sending vagrants to other countries than their own, when it appears that such a course will be for their advantage, and that they will be favourably received on arriving at their destination

XV.—Descriptive rolls, and, as far as possible, photographs of all persons deported shall be kept by the Local Governments or Administrations within whose territory the ports are situated—(*Notification No. 4828, dated 20th October 1870—Gazette of India of 22nd idem, p. 721, and Punjab Gazette of 3rd November 1870*)

(b). Referring to the complaint made by the Select Vestry of Liverpool, the Local Government Board in London, in their letter dated the 13th August 1872, to Her Majesty's Under Secretary of State for India, suggested that the provisions of the Indian law should be altered so "as to enable foreigners to be sent from India to their own countries instead of to Great Britain, or that they should be otherwise provided with the means of reaching them." Her Majesty's Secretary of State for India directs the attention of the Government of India to this suggestion.

2. The Governor-General in Council observes that the European Vagrancy Act (No. XXI of 1869) \* imposes no restriction whatever as to the place to which a vagrant may be deported. It merely provides for his removal from British India, and for his entering, with that view, into an agreement (1) to embark on board the appointed ship, and (2) to remain on board until the vessel shall have arrived at her port of destination. But the rules which were passed on the 20th October 1870, under Section 34 of the Act, for the guidance of officers in matters connected with the enforcement of the law, lay down a principle for general guidance in respect to the place to which vagrants may be deported. The 14th of these rules prescribes as follows; "As a rule Europeans should be sent to Europe, Americans to America, West Indians to the West Indies, Australians to Australia, New Zealanders to New Zealand. But the local authorities will exercise their discretion in sending vagrants to other countries than their own, when it appears that such a course will be for their advantage, and that they will be favorably received on arriving at their destination"

\* The Lieutenant-Governor has directed that officers who are empowered under Rule VIII to act on behalf of the Secretary of State in taking agreements from vagrants, shall report each case, through the proper channel, for the sanction of the Local Government, previous to the agreements being finally concluded.—(*Notification No. 1009, dated 28th March 1872—Punjab Gazette of 28th idem*).

3. Under the spirit of the above rules vagrants should ordinarily be sent to their own countries, though a discretion is left to local departments to depart from the rule under certain specified conditions. With reference to the exercise of this discretion, the Governor-General in Council desires to bring to the notice of the Local Governments and Administrations that several instances have occurred in which the authorities of the place to which vagrants have been deported have objected to such deportation. His Excellency in Council would, therefore, call special attention to the necessity of adhering to the principle of Rule XIV, *i.e.*, to send vagrants to their own countries only, except in cases in which the Local Government or Administration is fully satisfied that the conditions specified in the latter part of the rule are fulfilled by the circumstances of the case — (*Resolution of the Government of India No 4630, dated 13th December 1872—Punjab Government Circular No 1—2 of 2nd January 1873*).

(c) —The following rules for the guidance of officers, and for the management and discipline of vagrants, issued with the sanction of the Governor-General of India in Council, under Sections 14 and 34 of Act XXI of 1869, are published:—

## CHAPTER I

### GENERAL MANAGEMENT.

1. Prosecutions of vagrants under Section 14 and the second clause of Section 20 of the Act shall not be instituted without the sanction of the Deputy Commissioner.

## CHAPTER II

### THE GOVERNOR OF THE WORKHOUSE.

2 The Superintendent of the Central Jail shall be the Governor of the workhouse.

3 The Governor of the workhouse shall make himself acquainted with the provisions of Act XXI of 1869, so far as they relate to the duties of his office.

4 He shall be responsible for the due observance of these and all other rules which shall be issued from time to time with the sanction of Government, under Section 14 of the Act.

5 He shall refer to the Deputy Commissioner all matters in which he requires further instructions, and shall obey all orders he may receive from him in regard to matters connected with the government of the workhouse, not distinctly provided for in these rules.

6 He shall have power to suspend any subordinate for misconduct, pending the orders of the Deputy Commissioner.

7 He shall keep such books as are required to be kept by these rules, or by any additional rules issued under the same authority.

8 He shall prepare and submit such reports and returns as may be required by the Deputy Commissioner.

## CHAPTER III

### GENERAL RULES FOR OFFICERS AND SERVANTS

9. No officer or servant on the establishment shall strike any inmate of the institution except in self-defence.

10. No such officer or servant shall sell to, or purchase from, the inmates of the workhouse any article whatsoever.

11. The introduction into the workhouse of tobacco, liquor, or any other article of luxury, is strictly prohibited.

12. All correspondence or intercourse between officers and servants of the workhouse and friends or relatives of inmates is also forbidden, unless specially authorized by the Deputy Commissioner.

## CHAPTER IV.

### DISCIPLINE AND DIET

13 Every vagrant on admittance into the workhouse shall have his hair cut, be required to bathe, and receive a suit of workhouse clothing. It will be for the Deputy Commissioner to decide, under Section 13 of the Act, if the vagrant's clothing and other effects shall be sold, and the sale proceeds, together with any money found on him, applied to payment of the general expenses of the institution.

14. On the morning after admission, each vagrant shall be examined by the Governor, and if pronounced capable of hard labor, shall be put to such work as the Governor may be able to provide for him.

15. Tasks shall be assigned, and each inmate shall be required to perform the allotted task before he is allowed to partake of the meals provided.

16. There shall be three meals a day throughout the year :—

BREAKFAST—

In summer at 8 A. M.,  
 „ winter at 9 A. M.

DINNER—

Throughout the year at 1 P. M.

TEA—

In summer at 6 P. M.  
 „ winter at 5 P. M.

17. The scale of diet shall be as follows :—

Class of Vagrants.	Meat	Bread.	Vegetables.	Butter	Salt.	Condiment.	Sugar.	Tea.	Milk.	Wood.
	oz.	oz.	oz.	oz.	oz.	oz.	oz.	oz.	oz.	lbs.
Labouring ... ..	16	16	16	1	$\frac{1}{2}$	$\frac{1}{2}$	1	$\frac{1}{2}$	4	4
Unlabouring ... ..	12	12	12	$\frac{1}{2}$	$\frac{1}{2}$	$\frac{1}{4}$	1	$\frac{1}{2}$	4	4

Mutton to be given three times, and beef four times a week. As this scale is fixed by the Act, it may not be departed from except in the case of sickness, and then only by the order of the Governor.

18. The proportion in which the above rations shall be given at each meal shall be determined by the Governor in consultation with the Deputy Commissioner.

19. The Governor shall issue directions as regards clothing, diet, and bedding of the sick inmates, and such inmates shall not be put to work unless certified by the Governor as fit to labor.

20. Each inmate of the workhouse shall rise and wash during the summer months at 5 A. M. and during the winter months at 7 A. M. Lights will be provided from dusk till 9 P. M. when the inmates will be required to retire to rest.

21. Vagrants refusing to work when required to do so, or being otherwise refractory, may, at the discretion of the Governor, be locked up in rooms provided for the purpose, and remain locked up until the complaints made against them have been enquired into by the Deputy Commissioner.

22. The inmates of the workhouse shall not be put to labor on Sundays, and they shall attend Divine Service at such times as the Ministers of their respective religions shall appoint with the sanction of the Deputy Commissioner.

23. A copy of these rules, together with copies of Sections 14 and 15 of the Act, shall be hung up in every ward and cell in the workhouse.

## CHAPTER V.

### GENERAL RULES.

24. The gates of the workhouse shall be locked at sun-set, and shall remain so locked till sun-rise.

25. No vagrant shall be allowed to leave the house except in search of work, and then only with the sanction of the Deputy Commissioner.

26. Strangers shall not be permitted to visit the workhouse and hold conversation with any of the inmates at any time without the permission of the Governor. But relatives of any inmate suffering from sickness may be allowed to visit him at any time with the permission of the Governor.

27. If a death from any cause occurs among the inmates, the Governor of the workhouse shall give notice thereof to the Magistrate of the District, and shall also at once inform the relatives of the deceased, if any such are to be found, and such relatives shall be allowed to carry away the corpse; otherwise the Governor shall make arrangements for the decent interment of the deceased.

28. The Governor of the workhouse shall use his best endeavours to obtain, outside the workhouse, suitable employment for the vagrants admitted thereto as required by Section 15 of the Act, and, whenever such employment is found, shall report the fact for the information of the Deputy Commissioner

29. In the event of his failing to obtain employment for any of the inmates within two months of their admission to the workhouse, he shall report the fact to the Deputy Commissioner, in order that action may be taken under Section 16 of the Act.

#### CHAPTER VI

##### BOOKS AND ACCOUNTS

30 The following books shall be kept by the Governor :—

I. Cash Book, showing all receipts and disbursements, including receipts from Government, private subscriptions and moneys taken from vagrants under Section 13 of the Act.

II. Register of admissions

III Register of discharges

IV Governor's Journal, in which shall be recorded all matters of importance relating to the health, conduct, and employment of the inmates ; also remarks on the conduct of all subordinate officials

V Minute book for visitors and other inspecting officials

VI. Manufactory book

VII. File book of orders for detention of vagrant

VIII Inventory of property of vagrant

IX File book of receipts

31. All money received by the Governor shall be deposited by him in the Government Treasury, whence payments shall be made on cheques signed by the Governor and countersigned by the Deputy Commissioner

32 The Governor shall be allowed a permanent advance for current expenses.—(*Notification No. 773, dated 6th March 1872—Punjab Gazette of 7th idem, p 294*)

(d) Forms for reporting the operation of the European Vagrancy Act have been prescribed by the Government of India. The returns should be submitted annually by Deputy Commissioners on the 5th January—(*Police Circular No. 9 of 1875*)

### ACT No. XIII of 1874.

(Passed on the 8th December 1874).

An Act to provide in the Punjab and elsewhere for the guardianship of European British Minors.

Whereas it is expedient to provide in the Punjab, Oudh, the Central Provinces, British Burma, Coorg, Ajmer and Mairwarā, and Assam for the guardianship of minors who either are born in the United Kingdom or any British colony, or are the children or grandchildren of persons so born ; It is hereby enacted as follows :—

#### PART I.

##### PRELIMINARY.

Short title 1. This Act may be called "The European British Minors Act, 1874."

Local extent. It extends to the territories respectively subject to the government of the Lieutenant-Governor of the Punjab and to the administration of the Chief Commissioners of Oudh, the Central Provinces, British Burma, Coorg, Ajmer and Mairwarā, and Assam ;

Personal application. So far as relates to minors, it applies only to persons born in the United Kingdom of Great Britain and Ireland, or any British colony, plantation, or settlement other than

British India, and to their children and grandchildren ;

Commencement.

And it shall come into force at once.

Interpretation clause

2. In this Act—

‘Minor.’

‘Minor’ means a person who has not completed the age of eighteen years ;

‘Guardian’ means a person who is appointed to take care of a minor’s person or property, or both ; and

‘Guardian’

‘Court’ means the highest Civil Court of appeal in any territory (other than British Burma) to which this Act extends.

‘Court’

In British Burma ‘Court’ means, in the town of Rangoon, the Court of the Recorder of Rangoon, and, elsewhere, the Court of the Deputy Commissioner.

## PART II.

### APPOINTMENT OF GUARDIANS.

3. A guardian of the person or property, or both, of any minor may be appointed by will or other instrument to take effect upon the death of the parent appointing—

Appointment by parent

(a) if the minor is legitimate, by the father, or by either parent if the other is dead or incapable of acting ;

(b) if the minor is illegitimate, by the mother.

4. If the Court within the local limits of whose jurisdiction any minor resides finds that the guardianship of his person or property has not been sufficiently provided for under section three, the Court may appoint a guardian of his person or property, or both, as the case may be.

Appointment by Court

If the minor has several properties, the Court may, if it think fit, appoint a guardian for each such property.

If the Court appoints a guardian for any property situate beyond the local limits of its jurisdiction, the Court within the local limits of whose jurisdiction such property may be situate shall accept such guardian as duly appointed and give effect to the order appointing him.

5. Whoever desires to be appointed the guardian of a minor’s person or property, or both, may apply to the Court within the local limits of whose jurisdiction the minor resides by petition setting forth the grounds of his application, and showing—

Application for appointment.

(a) the minor’s age and residence ;

(b) the nature and amount of his property ;

(c) what relatives he has in India or elsewhere, and

(d) the qualifications of the proposed guardian and his willingness to act as such.

The petition shall bear a stamp of five rupees, and the statements therein contained shall be verified by the petitioner or some other competent person in manner required by law for the verification of complaints, and may at the hearing be referred to as evidence.

Stamp.  
Verification.

The Court, if satisfied that there is ground for proceeding, shall give notice of the application to the person (if any) named in the petition as having the custody or being in possession of the person or property of such minor, as well as to any other person whom the Court may think should receive such notice, and shall fix as early a day as may be convenient for the hearing of the petition.

6. The Court may direct that the person (if any) having the custody of such minor shall produce him at such place and time as may be appointed by the Court, and may make such order for the temporary custody and protection of the minor's person or property as may appear proper.

7. On the day fixed for the hearing of the petition or as soon after as may be practicable, the petitioner shall adduce evidence to show the fitness of the proposed guardian; and the Court shall make such order as it thinks fit in respect to the guardianship of the minor's person or property, or both, and the costs of the case.

8. In cases instituted under this Act, the Court shall be guided by the procedure prescribed in the Code of Civil Procedure in so far as the same is applicable; and any order made by the Court under section six or section seven may be enforced as if such order had been in a regular suit or on appeal; and all orders made under this Act by Deputy Commissioners in British Burma shall be appealable as if they were decrees.

The forms set forth in the schedule hereto annexed, with such variation as the circumstances of each case require, may be used for the respective purposes mentioned in such schedule.

And the Court may from time to time prescribe rules consistent with this Act for regulating the procedure hereunder:

Provided that, in the case of Courts of Deputy Commissioners in British Burma, such rules shall be prescribed by the Judicial Commissioner.

9. Save as provided by section eight, no order passed under this Act in respect to the guardianship of a minor's person or property shall be liable to be contested in any other proceeding.

10. In appointing the guardian of a minor, the Court shall be guided by the following considerations:—

(a).—By what appears to be for the best interest of the minor in respect to his temporal and his mental and moral welfare; and if the minor is old enough to form an intelligent preference, the Court may consider that preference:

(b).—As between parents adversely claiming the custody or guardianship, neither parent is entitled to it as of right; but if, other things being equal, the minor is of tender years, he should be given to the mother: if he is of an age to require education and preparation for labour and business, then to the father:

(c).—The Court shall also consider the following circumstances according as they may bear upon the guardianship of person or of property :—

- (1) Nearness of relationship ;
- (2) The wishes of a deceased parent ;
- (3) Any existing or previous connection of the proposed guardian with the minor's person or property.

### PART III.

#### GUARDIANS' DUTIES, RIGHTS AND LIABILITIES.

##### *A.—Guardians of the Person.*

11. A guardian of the person is charged with the custody of the ward, and must look to his support, health and education.  
Duties of guardian of the person.

12. A ward is presumed to be of his father's religion; and the guardian, in the absence of the Court's direction to the contrary, must train the ward in such religion. If the ward is old enough to form an intelligent preference for any religion, the Court, in giving such direction, shall attend to such preference.  
Ward's religion.

13. Any ward who may desert his home may be compelled by order of the Court to return. But such order may be withheld by the Court if it appear—  
Guardian entitled to custody of ward.

(a) that the ward has been subjected to mal-treatment at the hands of his guardian ;

(b) that the conduct of the guardian in other respects renders him unfit for the office, or

(c) that the ward is on reasonable grounds unwilling to return and is old enough to form an intelligent preference on such a subject.

14. No guardian of the person appointed by the Court shall, without the leave of the Court, remove its ward from the limits of its jurisdiction.  
Removal of ward from jurisdiction.

Any person wilfully contravening this prohibition shall be liable by order of the Court to fine not exceeding one thousand rupees, or to imprisonment for a term which may extend to six months, or to both.

##### *B.—Guardians of Property.*

15. A guardian of the property shall keep safely the property of his ward.  
Duties of guardian of property.

In the case of immoveable property he shall not suffer any waste, but shall maintain the buildings (if any) thereon and their appurtenances out of the rents and profits of the property.  
Prohibition of waste.

16. The guardian of any immoveable property may make leases for any term not exceeding a year, or from year to year, of such property or any part thereof ; and with the sanction of the Court, may make such lease of the property, or any part thereof, for such term of years and subject to such rents and covenants as the Court may direct ; but in no such case shall any fine or premium be taken.  
Power to lease.

The lease shall be settled by an officer of the Court, and a counterpart thereof shall be executed by the lessee, and shall be deposited for safe custody in the Court until the ward completes the age of eighteen years ; but all proper parties shall have the use thereof, if necessary, for the purpose of enforcing any covenant therein contained.

17. The Court may order that the principal of the ward's property, Power to use principal for or any part thereof, shall be applied for his maintenance, education or advancement, and the guardian of such property shall obey such order.

Rules as to guardians of property 18. Every guardian of the property of a minor shall—

(a) give such security, if any, as the Court thinks fit duly to account for what he shall receive in respect of the minor's property ;

(b) pass his accounts at such periods and in such form as the Court directs ;

(c) pay the balance due from him thereon ;

(d) be entitled to such allowance, if any, as the Court thinks fit for his care and pains in the execution of his duties ;

(e) be responsible for any loss occasioned to the property by his wilful default or gross negligence.

*C.—As to all Guardians.*

Minor guardian incompetent to act

19. No person appointed a guardian shall be competent to act as such unless he has completed the age of eighteen years.

20. Every guardian, whether appointed by a parent or under this Act Guardian under control of Court by a Court, is subjected to the control of the Court within the local limits of whose jurisdiction he resides.

21. On the death of one of two or more joint guardians, whether appointed by a parent or under this Act, the power Death of joint guardian continues to the survivor or survivors until a further appointment is made by the Court.

Removal of guardian 22. A guardian may be removed by the Court for any of the following causes :—

(a) for abuse of his trust ;

(b) for continued failure to perform its duties ;

(c) for incapacity to perform its duties ;

(d) for gross immorality ;

(e) for having an interest adverse to the faithful performance of his duties ;

(f) for removal from the local limits of the jurisdiction of the Court ;

(g) the arrival within such local limits of some person whose guardianship the Court may think likely to be more beneficial to the minor than the guardianship of the person so removed ;

(h) in the case of a guardian of the property, for insolvency.

Appointment of successor.

In any such case the Court may appoint a successor to the guardian so removed.



**23.** Any guardian, whether appointed by a parent or by the Court, desiring to resign his office, may apply to the Court  
*Resignation of guardian* to discharge him,

and if the Court finds that there is some other proper person whom it may appoint to such guardianship, it shall discharge the guardian accordingly, and appoint such other proper person in his place.

**24.** Applications for appointments under section twenty-two or section twenty-three shall be made in manner provided in  
*Application for appointment on guardian's removal or resignation* section five; and the procedure thereon shall be in accordance with section seven.

**25.** The power of a guardian of the person  
*Close of authority of guardian.* ceases—

- (a) by his removal or discharge;
- (b) by the ward's attaining majority, and
- (c) in the case of a female ward, by her marriage followed by cohabitation.

The power of a guardian of the property ceases—

- (a) by his removal or discharge;
- (b) by the ward's attaining majority.

#### SCHEDULE

##### *I—Petition for Appointment of Guardian.*

*(See Section 5)*

In the Chief Court of the Punjab [ or in the Court of the Recorder of Rangoon, or as the case may be ]

In the matter of *A. B.*, a minor, by *C. D.*, his next friend

To Mr. Justice (or as the case may be)

The petition of *C. D.* of

Sheweth—

1. The said *A. B.* is now of the age of \_\_\_\_\_ years and upwards. He is the same person as '*A. son of C. and L. B.*' named in the paper-writing now produced and shown to me and marked *A.*, and purporting to be a copy under the seal of the General Register Office of the entry No. \_\_\_\_\_ in the certified copy of entries of births in the district of *D.* in the county of *L.* for the year 187 \_\_\_\_\_

2. The said *A. B.* is absolutely entitled under the will of his maternal uncle *E. F.* late of (*residence and addition*) to the following properties (namely) —

- (a) a house in \_\_\_\_\_ let to *N. O.* as yearly tenant at Rs. 1,000 a year
- (b) Rs. 20,000 in the four per cent securities of the Government of India, standing in the names of *R. S.* and *T. W.*, the trustees of the will of the said *E. F.*
- (c) Rs. 800 cash in the hands of the said *R. S.* and *T. W.*, arisen from dividends on the said stock

3. The only relations of the said *A. B.* now living are—(a), your petitioner, his maternal uncle; (b)—*S. H.*, wife of *T. H.* of (*residence and addition*), the half-sister of the said *A. B.* and (c)—*R. D. V.*, the half brother of the said *A. B.*, who is a Captain in Her Majesty's Army and now stationed at Bombay

4. The said *A. B.* was, at the time of the death of his father, *C. B.*, which happened on the \_\_\_\_\_ 187 \_\_\_\_\_, and is now, residing as a scholar at Bishop Cotton's School, Simla, in the custody of the Rev *M. N.*, the headmaster

5. Your petitioner [*here state his qualifications as guardian, e.g., that he has attained his majority, is married, has children, resides with his family at some reasonably healthy place mentioning it, holds a responsible office, stating it*], and is willing to act as the guardian of the person and property [*or as may be*] of the said *A. B.* during his minority in case this Hon'ble Court shall think fit to appoint me to that office.

Your petitioner therefore prays this Hon'ble Court—

1. That your petitioner or some other proper person may, upon giving security, be appointed the guardian of the person and property of the said A. B. during his minority, or until further order

2. And that the said C. D. or other such guardian may from time to time pass his accounts and pay the balances which shall be certified to be due from him into the Government Treasury to the credit of this matter, and that such balances may be laid out in securities of the Government of India, or in loans or bonds secured by the Imperial Parliament on the revenues of India, or in debentures of railways guaranteed by the Government of India, and the interest to accrue thereon and all accumulations of interest be laid out in like manner

3. And that the costs of this petition may be taxed as between attorney and client ; and that the said C. D. or other such guardian may retain and pay the same out of any monies of the said minor which may come to his hands and be allowed the same on passing his said accounts

(Signed) C. D.

*Form of Verification*

(See Section 5)

I, C. D., the petitioner named in the above petition, do declare that what is stated therein is true to the best of my information and belief

*II—Affidavit of Fitness of Guardian.*

(See Section 7)

In the Chief Court, &c, (or as the case may be)

In the matter of A. B., a minor, by C. D., his next friend

I, E. F. of (residence and addition), make oath and say as follows —

1. I know and have for years past been well acquainted with C. D., the petitioner in this matter.

2. The said C. D. is married and has children, namely, a son of the age of years and daughters of the respective ages of and years

3. The said C. D. resides with his wife and children at

4. In my judgment and belief the said C. D. is a fit and proper person to be appointed guardian of the person and property of his nephew, the said minor A. B., for the following reasons (state them) —

Sworn at this day of 1871, before me E. F.

(Official character and description of E. F.).

*III.—Recognizance by a Guardian of property and his surety, after an order appointing him subject to his giving security*

Stamp  
as in case of  
a bond

(Short title)  
The Senior Judge of  
the Chief Court of the  
Punjab [or as the case  
may be] has approved  
of and allowed this  
recognizance.

X Y.,  
Registrar  
C. D., (the principal), of (residence and addition), and L. M. (the surety) acknowledge themselves and each of them acknowledges him self to owe to the Secretary of State for India in Council the sum of Rs. [to be regulated by the sum which the guardian is likely to receive during the currency of his periodical account] to be paid to the said Secretary of State for India in Council, and unless they pay the same, they the said C. D. and L. M., do and each of them doth grant for himself his executors and administrators, that the said sum shall be levied and received from them and each of them and from their and his moveable and immoveable property.

Dated the day of 187

Whereas by an order of the Court of , made by (name the Judge,) in a certain matter there depending, intituled 'In the matter of [Recite the order appointing the guardian, subject to his giving security and continuethus].—

And whereas (name the Judge who has approved of the surety and recognizance) has approved of the above bounden L. M. as surety for the said C. D., and hath also approved of the above written recognizance with the under-written condition, as a proper security to be entered into by the said C. D. and L. M. pursuant to the said order, and in testimony of the said approbation, the Registrar [or as the case may be] of the said Court hath signed an allowance in the margin thereof.

Now the condition of the above-written recognizance is such, that if the said *C D* shall duly account for every sum of money which he shall receive on account of the property of the said minor *A B*, and the rents and profits and other income thereof, at such periods as the said Judge shall appoint, and shall duly pay the balances which shall, from time to time, be certified to be due from him as the said Court or Judge hath directed, or shall hereafter direct, then the above recognizance shall be void, otherwise the same shall remain in force

*C D* { Taken and acknowledged by the above-named *C D* and *L M*, at in  
*L M*. { this day of 187 before me

(Signature and style of office of the officer  
 by whom the recognizance is taken).

## ACT No. XIV of 1874

(Passed on the 8th December 1874).

An Act to ascertain the enactments in force in various parts of British India, and for other purposes.

Whereas various part of British India have never been brought within, or have from time to time been removed from, the operation of the general Acts and Regulations and the jurisdiction of the ordinary Courts of Judicature ;

Preamble.

And whereas doubts have arisen in some cases as to which Acts or Regulations are in force in such parts, and in other cases as to what are the boundaries of such parts : And whereas among such parts are the territories specified in the first schedule hereto annexed, and it is expedient to provide readier means than now exist for ascertaining the enactments in force in such territories and the boundaries thereof, and for administering the law therein : And whereas it is expedient to declare that certain Acts are in force in a tract of land lying between the Railway Station at Satna and the eastern boundary of the Jabalpur Division ;—

It is hereby enacted as follows :—

Short title.

1. This Act may be called “ The Scheduled Districts Act, 1874 : ”

Local extent

This Act extends in the first instance to the whole of British India other than the territories mentioned in the first schedule hereto annexed, and it shall come into force in each of the Scheduled Districts on the issue of a notification under section three relating to such District.

Interpretation-clause

In this Act the term “ Scheduled Districts ” means the territories mentioned in the first schedule hereto annexed ; and, from the date fixed in the resolution next hereinafter mentioned, it shall also include any other territory to which the Secretary of State for India, by resolution in Council, may declare the provisions of the thirty-third of Victoria, chapter three, section one, to be applicable.

NOTE.—This Act was declared to be in force in the Scheduled Districts of the Punjab by Government of India Notification No 141 J, dated 18th September 1877

Repeal of enactments

2. The enactments mentioned in the second schedule hereto annexed shall be repealed.

3. The Local Government, with the previous sanction of the Governor-

Notification of enactments in force in Scheduled Districts

General in Council, may from time to time, by notification in the *Gazette of India* and also in the local Gazette (if any) —

(a) declare what enactments are actually in force in any of the Scheduled Districts, or in any part of any such District,

(b) declare of any enactment that it is not actually in force in any of the said Districts or in any part of any such District,\*

(c) correct any mistake of fact in any notification issued under this section :

Provided that a declaration once made under clause (a) or clause (b) of this section shall not be altered by any subsequent declaration other than a declaration under clause (c) of this section.

NOTE — See Notes (a), (b) and (c) at the end of the Act.

4. On the issue, under section three, of a notification declaring what enactments are in force, or not in force, in any Scheduled District, the enactment so notified shall be deemed to be in force, or not in force, according to the tenor of the notification, in such District, and every such notification shall be binding on all Courts of law.

5. The Local Government, with the previous sanction of the Governor-General in Council, may from time to time, by notification in the *Gazette of India* and also in the local Gazette (if any), extend to any of the Scheduled Districts, or to any part of any such District, any enactment which is in force in any part of British India at the date of such extension.

NOTE — See Note (d) at the end of this Act.

Appointment of officers and regulation of their procedure

6. The Local Government may from time to time—

(a) appoint officers to administer civil and criminal justice, and to superintend the settlement and collection of the public revenue, and all matters relating to rent, and otherwise to conduct the administration, within the Scheduled Districts,

(b) regulate the procedure of the officers so appointed ; but not so as to restrict the operation of any enactment for the time being in force in any of the said Districts,

(c) direct by what authority any jurisdiction, powers or duties incident to the operation of any enactment for the time being in force in such District shall be exercised or performed.

7. All rules heretofore prescribed by the Governor-General in Council or the Local Government for the guidance of officers appointed within any of the Scheduled Districts for all or any of the purposes mentioned in section six and in force at the time of the passing of this Act, shall continue to be in force unless and until the Governor-General in Council or the Local Government, as the case may be, otherwise directs.

All existing officers so appointed previous to the date on which this Act comes into force in such District shall be deemed to have been appointed hereunder.

8. Whenever any question arises as to the line of boundary between any of the Scheduled Districts and other territory, such officer as the Local Government or (where the said District and the other territory are not subject to the same Local Government) as the Governor-General in Council from time to time appoints, may consider and determine such line of boundary ; and the order made thereon by such officer, if confirmed by the Government which appointed him, shall be conclusive in all Courts of Justice.

9. Any person liable to be imprisoned or to be transported beyond sea under any order or sentence passed by any officer

appointed under section six, may (subject to such rules as the Governor-General in Council may from time to time prescribe in this behalf), be imprisoned in such jail or transported to such place as the Local Government directs.

10. Acts No. III of 1867, No. XIV of 1867, and No. XXV of 1869 are hereby declared to be in force in the tract of land ceded to the British Government in the year 1863, and lying between the Railway Station at Satna and the eastern boundary of the Jabalpur District.

Extension to Satna strip of Acts relating to public gambling, pandhari-tax and salt.

District.

Saving of criminal jurisdiction over European British subjects.

11. Nothing contained in this Act or in any notification issued under the powers hereby conferred shall be deemed—

(a) to affect the criminal jurisdiction of any Court over European British subjects, or

(b) to affect any law other than laws contained in Acts or Regulations or in rules made in exercise of powers conferred by such Acts or Regulations.

#### THE FIRST SCHEDULE

(See Section 1)

##### PART I

##### SCHEDULED DISTRICTS, MADRAS

##### I.—In Ganjam

- (1) The Gumsur Maliahs, including Chokapad
- (2) The Surada Mahahs
- (3) The Chinna Kimedi Maliahs
- (4) The Pedda Kimedi Maliahs
- (5) The Bodaguda Maliahs
- (6) The Surangi Mahahs
- (7) The Parla Kimedi Maliahs
- (8) The Muttas of Korádá and Ronaba (otherwise called Srikarma).
- (9) The Chighatti Mahah
- (10) The Juradá Mahah
- (11) The Jalandra Mahah
- (12) The Mandasa Mahah
- (13) The Budarasinghi Mahah.
- (14) The Kuttingia Mahah

##### II.—In Vizagapatam.

- (1) The Joypur Zamindari
- (2) Golconda Hills, west of the River Boderu.
- (3) The Madugol Maliahs
- (4) The Kasipur Zamindari
- (5) The Panchipenta Maliahs
- (6) Mondemkolla, in the Merangi Zamindari.
- (7) The Konda Mutta of Belgam
- (8) The Gumna and Konda Muttas of Kurpam
- (9) The Kottom, Ram and Konda Muttas of Palkonda

##### III.—In the Godavari District.

The Laccadive Islands, including Minicoy

##### PART II

##### SCHEDULED DISTRICTS, BOMBAY.

I.—The Province of Sindh

II.—The Panch Mahals \*

III.—Aden

IV.—The villages belonging to the following Mehwassi Chiefs:—

- (1) The Parvi of Kathi
- (2) The Parvi of Nal
- (3) The Parvi of Singpur
- (4) Walvi of Gachalli
- (5) The Wassawa of Chikuli
- (6) The Parvi of Nawalpur.

\* See Act VII of 1855.

## PART III.

## SCHEDULED DISTRICTS, BENGAL.

- I.—The Jalpaigori and Darjeeling Divisions.
- II.—The Hill Tracts of Chittagong.
- III.—The Santhal Parganas.
- IV.—The Chutia Nagpur Division.
- V.—The Mahal of Angul.

## PART IV.

## SCHEDULED DISTRICTS, NORTH-WESTERN PROVINCES.

- I.—The Jhānsi Division, comprising the Districts of Jhānsi, Jalaun and Lalatpur.
- II.—The Province of Kumaon and Garhwāl.
- III.—The Terai Parganas, comprising Bazpur, Jaspur, Rudarpur, Gadarpur, Kilpuri, Nanak-Mattha and Bilheri.
- IV.—In the Mirzapur District—
  - (1.) The tappas of Agori Khas and South Kon in the Pargana of Agori.
  - (2.) The tappa of British Singrauli in the Pargana of Singrauli.
  - (3.) The tappas of Phulwā, Dudhi and Barhā in the Pargana of Bichipār.
  - (4.) The portion lying to the South to the Kaimor Range.

V. \* \* \* \* \*

- VI.—The tract of country known as Jaunsar Bawar in the Dehra Dun District.

## PART V.

## SCHEDULED DISTRICTS, PUNJAB.

The districts of Hazara, Peshawar, Kohat, Bannu, Dera Ismail Khan, Dera Ghazi Khan, Lahaul and Spiti.

## PART VI.

## SCHEDULED DISTRICTS, CENTRAL PROVINCES.

*Chhattisgarh Zamindaris, viz :*

- |                     |                |                   |
|---------------------|----------------|-------------------|
| 1. Khariar.         | 9. Gondaraehi. | 17. Chhuri.       |
| 2. Bindra Nawagarh. | 10. Fingeswar. | 18. Korba.        |
| 3. Sahezpur.        | 11. Pandaria.  | 19. Chapa.        |
| 4. Gandai.          | 12. Pendra.    | 20. Bora Sambhar. |
| 5. Silheti.         | 13. Matin.     | 21. Phuljhar.     |
| 6. Barbaspur.       | 14. Uprora.    | 22. Kolabira.     |
| 7. Thakurtola.      | 15. Kenda.     | 23. Rampur.       |
| 8. Lohara.          | 16. Lapha      |                   |

*Chanda Zamindaris.*

- |                     |                |                   |
|---------------------|----------------|-------------------|
| 1. Ahiri.           | 8. Khutgaon.   | 15. Sirsundi.     |
| 2. Ambagarh Chauki. | 9. Koracha.    | 16. Sonsari.      |
| 3. Aundhi.          | 10. Kotgal.    | 17. Chandala.     |
| 4. Dhanora.         | 11. Muramgaon. | 18. Gilgaon.      |
| 5. Dudhmala.        | 12. Panabaras. | 19. Pawi Mutanda. |
| 6. Gewarda.         | 13. Palasgarh. | 20. Pategaon.     |
| 7. Jharapapra.      | 14. Rangt.     |                   |

*Chhindwara Jagirdaris.*

- |                |                |                    |
|----------------|----------------|--------------------|
| 1. Harai.      | 5. Baktagarh.  | 9. Almod.          |
| 2. Chhater.    | 6. Bardagarh.  | 10. Sonpur.        |
| 3. Gorakhghat. | 7. Pachmarhi.  | 11. Bariam Pagará. |
| 4. Gorpani.    | 8. Partabgarh. |                    |

## PART VII.

The Chief Commissionership of Coorg.

## PART VIII.

The Chief Commissionership of the Andaman and Nicobar Islands.

## PART IX

The Chief Commissionership of Ajmere and Mairwara

## PART X

The Chief Commissionership of Assam

## PART XI

The Hill Tracts of Arakan

## PART XII

The Pargana of Manpur

## PART XIII

The Cantonment of Morar

## THE SECOND SCHEDULE

(See Section 2)

(Enactments repealed)—Omitted

NOTES —(a) With the sanction of the Governor-General in Council, the following Acts are declared, under the provisions of Section 3 of Act XIV of 1874, to be in force in the following Scheduled Districts of the Punjab, namely —

Hazara  
Peshawar  
Kohat

Bannu  
Dera Ismail Khan  
Dera Ghāzi Khan

Year	Number	Subject	REMARKS.
1836	XXVI	Governor-General's Camp Police	
1837	IV	Power to acquire land	
1838	XXV	Wills executed before the 1st January 1866	
1839	XXIX	Dower when marriage was contracted before 1st January 1866	
"	XXX	Inheritance, where descent took place before 1st January 1866	
"	XXXII	Interest	
1841	XI	Military Courts of Requests	
"	XIX	Curators in cases of succession	
1842	IX	Lease and release	
"	XII	Military bazars	
1843	V	Slavery	
1847	XX	Copyright	
1850	XVIII	Protection of Judicial Officers	
"	XIX	Binding of apprentices	
"	XXI	Non-forfeiture of rights by loss of caste	
"	XXXIV	State prisoners	
"	XXXVII	Inquiries into behaviour of public servants	
1851	VIII	Tolls on roads and bridges	
1852	XXX	Naturalization of aliens	
"	XXXIII	Enforcement of Judgments of Charter Courts and Military Courts of Requests	
1853	II	Burdens on land	
"	XIX	Recusant witnesses	
"	Sec 26		
1854	XXVI	Education of male minors subject to the superintendence of the Court of Wards	
"	XXXI	Barring entails; conveyances by married women	
1855	XI	Meane profits and improvements	
"	XII	Executors and Administrators	
"	XXXIII	Administration of mortgaged estates in cases of descents occurring or devices made before the 1st	

Year.	Number	Subject	REMARKS
		January 1866	
"	XXIV	Penal servitude.	
"	XXVIII	Interest	
1856	XI	Desertion by European soldiers	
"	XV	Marriage of Hindu widows.	
1857	XI	Offences against the State	
"	XXV	Forfeiture by mutineers	
1858	III	State prisoners	
"	XXXV	Estates of lunatics not subject to jurisdiction of Supreme Courts	
"	XXXVI	Lunatic Asylums	
"	XL	Care of persons and property of minors	
1859	III	Cantonment Joint-Magistrates	
"	IX	Claims to property seized as forfeited	
"	XV	Patents	
1860	XXI	Registration of Societies	
"	XXVII	Collection of debts on successions	
1861	IX	Minors	
1862	III	Government seal	
1863	XVI	Excise duty payable on spirits used in arts and manufactures	
"	XXIII	Claim to waste lands	
"	XXXI	Gazette of India	
1864	III	Foreigners	
"	VI	Whipping	
"	XV	Tolls on public roads and bridges	
1865	III	Common carriers	
"	XI	Mofussil Courts of Small Causes	
"	XV	Marriage and divorce among Parsis	
"	XXI	Intestate succession among Parsis	
1866	V, Secs 1&15	Bills of Exchange, Commercial Law	
"	XXI	Dissolution of marriage of native converts	
"	XXVIII	Trustees and mortgagees' powers	... ..
1867	XXV	Printing Presses, &c	
1869	XV	Evidence of prisoners	So far as not repealed by Act II of 1882.

(Punjab Government Notification No 1071, dated 21st December 1885, Punjab Gazette of 24th idem, Part I, page 1163, and Gazette of India of 30th January 1886).

(b) No 396—With the sanction of the Governor-General in Council, the following Acts are declared, under the provisions of Section 3 of Act XIV of 1874, to be in force in the Scheduled District of Lahul in the Punjab:—

1836	XXVI	—Governor-General's Camp Police
1837	IV	—Powers to acquire land.
1838	XXV	—Wills executed before 1st January 1866.
1839	XXXII	—Interest
1841	XIX	—Curators in cases of succession
1843	V	—Slavery.
1847	XX	—Copyright
1850	XVIII.	—Protection of Judicial Officers
1850	XXI	—Non-forfeiture of rights by loss of caste
1850	XXXIV	—Custody of State prisoners.
1850.	XXXVII	—Enquiries into behaviour of public servants.
1851.	VIII	—Tolls on public roads and bridges.
1852.	XXX	—Naturalization of aliens.
1852.	XXXIII	—Enforcement of judgments beyond jurisdiction, &c.
1853	II	—Burdens on land
1854	XXVI.	—Education of male minors, &c
1855.	XII	—Executors and Administrators
1855	XXVIII	—Interest
1856	XV.	—Marriage of Hindu widows
1857	XI.	—Offences against the State
1858.	XXXV	—Care of the estates of lunatics.
1858	XXXVI.	—Lunatic Asylums
1858.	XL	—Care of person and property of minors.
1858.	III.	—Arrest and detention of prisoners.
1860.	XXVII.	—Collections of debts on succession.



1861.	IX.—Minors.
1863.	XXIII.—Claim to waste lands.
1863.	XXXI.—Gazette of India.
1864.	III.—Foreigners.
1864.	VI.—Whipping.
1864.	XV.—Tolls on public roads and bridges.
1866.	XXI.—Dissolution of marriage of converts.
1869.	XV.—Prisoners Testimony Act.

No. 397.—With the sanction of the Governor-General in Council, the following Acts are declared, under the provisions of Section 3 of Act XIV of 1874, not to be in force in the Scheduled District of Lahul in the Punjab :—

1839.	XXX.—Inheritance when descent took place before 1st January 1866.
1839.	XXIX.—Dowers when the marriage was contracted before 1st January 1866.
1841.	XI.—Military Courts of Request.
1842.	IX.—Lease and release.
1842.	XII.—Military Bazaars.
1850.	XIX.—Binding of apprentices.
1853.	XIX.—Recusant witnesses.
1854.	XXXI.—Barring entails, &c.
1855.	XI.—Mesne profits and improvements.
1855.	XXIII.—Administration of mortgaged estates, &c.
1855.	XXIV.—Penal servitude.
1856.	XI.—Desertion by European Soldiers.
1857.	XXV.—Forfeiture by Mutineers.
1859.	XV.—Patents.
1859.	III.—Cantonment Joint Magistrates.
1859.	IX.—Claims to forfeited property.
1860.	XXI.—Registration of Societies.
1862.	III.—Government Seal.
1863.	XVI.—Excise duty on spirits used in arts.
1865.	XI.—Small Cause Court.
1865.	XXI.—Intestate succession among Parsis.
1865.	XV.—Parsis' Marriage and Divorce.
1865.	III.—Common carriers.
1866.	V.—Bills of Exchange.
1866.	XXVIII.—Trustees and mortgagees' powers.
1867.	XXV.—Printing Presses, &c.
1870.	I.—Quarantine.

(Punjab Government Notifications No. 396, 397, dated 7th April 1886, Punjab Gazette of 8th idem, Part I, pp. 176, 177, and Gazette of India of 1st May 1886).

(c). In exercise of the powers conferred by Section 3 of the Scheduled Districts Act 1874, the Hon'ble the Lieutenant-Governor is pleased, with the previous sanction of the Governor-General in Council, to declare Act XX of 1863 (to enable the Government to divest itself of the management of religious endowments) to be in force in the following Scheduled Districts of the Punjab, namely, Hazara, Peshawar, Kohat, Bannu, Dera Ismail Khan and Dera Ghazi Khan.

(Punjab Government Notification No. 566, dated 18th May 1886, Punjab Gazette of 20th idem, Part I, page 292, and Gazette of India of 5th June 1886).

(d). The following Acts have been extended to the scheduled districts of the Punjab under the powers conferred by Section 5 :—

I. Act XII of 1850.—(Government of India Notification No. 2833 I, dated 24th December 1883, Gazette of India of 29th idem).

II. Act XIII of 1855.—(No. 296 I. J. dated 13th October 1881, Punjab Gazette of 20th idem, Part II, page 312).

III. Act I of 1877 (The Specific Relief Act).—(No. 145 J. dated 18th September 1877, Gazette of India of 22th idem, page 562).

IV. Act XIV of 1882 (The Code of Civil Procedure).—(No. 69 I. J. dated 1st June 1882, Punjab Gazette of 8th idem, Part I, page 126).

## ACT No. XV of 1874.

(Passed on the 8th December 1874).

An Act for declaring the local extent of certain Enactments, and for other purposes.

## Preamble

1 This Act may be called " The Laws Local  
Extent Act, 1874."

### Interpretation-clause

### Local extent of Acts in first schedule

Local extent of enact-  
ments in second schedule

Local extent of enact-  
ments in third schedule.

### Local extent of enactments in fourth schedule

Local extent of enact-  
ments in fifth schedule

8. Nothing herein contained shall—

place any Act mentioned in the said first schedule ;

power ;

to or declared to be in force in any of the Scheduled Districts ;

with reference to some special subject ; •

(e) *Repealed by Act VIII of 1887 ;*

(f) extend Act No. XVII of 1840, or Act No. VII of 1852, or Madras Regulation I of 1805, or Madras Regulation II of 1807, to any place in which Madras Act No. VI of 1871 is in force ;

(g) extend Act No. IX of 1861 to any part of the territories subject to the government of the Governor of Bombay in Council ;

(h) *Repealed by Act VIII of 1887 ;*

(i) extend to the villages mentioned in the schedule to Act No. IV of 1868 any law not now in force therein ;

(j) extend to any of the Towns of Calcutta, Madras and Bombay any law not now in force therein ;

(j) extend to Pargana Bhadohi or Pargana Kora Mangrur in the Mirzapur District, or to Pargana Kaswar Raja in the Benares district, any law not now in force therein ;

NOTE.—See Act XIV of 1881

(k) affect the operation of any enactment not mentioned in any of the schedules hereto annexed.

### 9. *Repealed by Act XII of 1876.*

#### FIRST SCHEDULE.

(See Section 3)

#### ACTS OF THE SUPREME COUNCIL.

YEAR AND NUMBER				SUBJECT.
1836.	XXVI	...	...	Governor-General's Camp Police
1837.	IV	...	...	Power to acquire land
1838.	XXV	...	...	Wills executed before the 1st January 1866
1839.	XXIX	...	...	Dower, when marriage was contracted before 1st Jany. 1866.
"	XXX	...	...	Inheritance, where descent took place before 1st Jany. 1866.
"	XXXII	...	...	Interest
1841.	X	...	...	Registration of ships
"	XIX	...	...	Curators in cases of successions
1842.	IX	...	...	Lease and release
1843.	V	...	...	Slavery
1847.	XX	...	...	Conjugal
1850.	V	...	...	Coasting Trade
"	XI	...	...	Navigation Laws.
"	XII	...	...	Default of Public Accountants
"	XVIII	...	...	Protection of Judicial Officers
"	XIX	...	...	Binding of Apprentices.
"	XXI	...	...	Non-forfeiture of rights by loss of Caste
"	XXXIV	...	...	State Prisoners
"	XXXVII	...	...	Inquiries into the behaviour of public servants.
1852.	XXX	...	...	Naturalization of Aliens
1853.	II	...	...	Burdens on land.
1854.	XVIII	...	...	Railways
"	XXXI	...	...	Barring entails : Conveyances by married women.
1855.	XI	...	...	Mesne profits and improvements.
"	XII	...	...	Executors and administrators.
"	XIII	...	...	Compensation for loss occasioned by death caused by actionable wrong.
"	XXIII	...	...	Administration of mortgaged estates in cases of descents occurring or devised made before the 1st January 1866.
"	XXIV	...	...	Penal servitude.
"	XXVIII	...	...	Interest.
1856.	IX	...	...	Bills of Lading.
"	XI	...	...	Desertion by European Soldiers.
"	XV	...	...	Marriage of Hindu Widows.
1857.	XI	...	...	Offences against the State.
"	XXV	...	...	Forfeiture by Mutineers.
1858.	III	...	...	State Prisoners.

FIRST SCHEDULE—*continued*.  
ACTS OF THE SUPREME COUNCIL—*continued*.

YEAR AND NUMBER.	SUBJECT.
1858. XXXV ... ..	Estates of Lunatics not subject to jurisdiction of Supreme Courts.
" XXXVI ... ..	Lunatic Asylums.
1859. I ... ..	Merchant Seamen.
" VIII ... ..	Civil Procedure.
" IX ... ..	Sections 16, 17, 18 and 20—Forfeitures.
" XIV (Sec. 15) ... ..	Suits to recover possession of land.
" XV ... ..	Patents.
1860. XXI ... ..	Registration of Societies.
" XXVII ... ..	Collection of debts on Successions.
1861. IX ... ..	Minors.
" XXIII ... ..	Amending Civil Procedure Code. •
1862. III ... ..	Government Seal.
1863. VI ... ..	Sea Customs.
" XVI ... ..	Excise Duty payable on Spirits used in Arts and Manufactures.
1863. XXIII ... ..	Claim to waste-lands.
" XXXI ... ..	Gazette of India.
1864. III ... ..	Foreigners.
" VI ... ..	Whipping.
1865. III ... ..	Common Carriers.
" XV ... ..	Marriage and divorce among Parsees.
" XXI ... ..	Intestate succession among Parsees.
1866 *. V ... ..	Bills of Exchange, Commercial Law.
" X ... ..	Companies.
" XXI ... ..	Dissolution of Marriages of Native Converts.
" XXVIII ... ..	Trustees and Mortgagees' Powers.
1867. XXV ... ..	Printing Presses, &c.
1868. X ... ..	Amending Consolidated Customs Act.
1869. XV ... ..	Evidence of Prisoners.
1870. I .. ..	Quarantine.

\* Act XXVI of 1881 repeals this Schedule so far as it relates to Act V of 1866, SS. 11, 12, 13.

SECOND SCHEDULE.

(See Section 4).

(a).—MADRAS REGULATIONS.

YEAR AND NUMBER.	SUBJECT.
1802. III (ss. 1, 11, part of s. 16 only) ... ..	Procedure of Civil Courts.
" V (s. 30) ... ..	Sadr Adálat to act according to justice, &c.
" XIII ... ..	Records of Courts.
" XIX (s. 2) ... ..	Covenanted Civil Servants forbidden to lend.
" XXV ... ..	Settlement of Land-revenue.
" XXVI (ss. 1, 2 & 3 only) ... ..	Registration of málguzáriland.
" XXIX ... ..	Karnams.
1803. I ... ..	Board of Revenue.
" II ... ..	Conduct of Collectors, &c.
1804. V ... ..	Court of Wards.
1805. I ... ..	Salt-revenue.
1806. II (parts of ss. 1 & 7) ... ..	Collectors and Karnams.
1807. II ... ..	Salt-revenue.
1808. VII ... ..	Martial Law.
1816. IV ... ..	Village Munsifs.
" V ... ..	Village Panchayats.
" IX (s. 43 only) ... ..	Prosecution of Zila Magistrates.
" XI ... ..	Sections 8, 9, 10—Heads of villages : Section 11, cl. 1—Stolen property : Section 13—Discovery of corpses : Section 14—Register of persons confined by heads of village ; and Section 47—Magistrates charged with maintenance of peace.
" XII ... ..	Reference of claims regarding land and produce to Village and District Panchayats.
" XIV ... ..	Native Pleaders.
1817. VII ... ..	Maintenance of Bridges, &c. Escheats.

## (b).—ACTS OF THE SUPREME COUNCIL RELATING TO THE MADRAS PRESIDENCY.

YEAR AND NUMBER		SUBJECT.
1817.	VIII (s. 9 only) ...	Sale for arrears of revenue of estate belonging to Native Officer or Soldier
"	II ... ..	State Prisoners
1822.	IV ... ..	Explanation of Madras Regulation XXV, 1802
"	VII (cl 1 of s 3 only)	Native Officers in Revenue and other Public Departments.
"	IX .. .	Embezzlement by public servants and malversation in revenue matters
1823.	III ... ..	Powers of Subordinate and Assistant Collectors.
1828.	VII ... ..	Hindu Wills and estates
1829.	V ... ..	Prohibition of widow-burning.
1830.	I ... ..	Liability of Ministerial Officers for reception of improperly stamped document
1831.	V (s 7, cl 2 only)	Hereditary Village Officers
"	VI . . .	Prohibition of Sale of Estates of Minors for Arrears of Revenue
"	X .. .	Limitation for Suits against orders of Revenue Authorities under Madras Regulation VII of 1828.
1832.	III . . .	Purchase of clothes from Soldiers
"	XIV .. .	Criminal Jurisdiction of Collectors
1837.	XXXVI ...	Tahsildars.
1839.	VII .. .	Awards of Panchayats.
1840.	VIII ...	Penalties for breach of Salt Laws.
"	XVII ...	
1844.	VI ... ..	Duties.
1846.	I ... ..	Pleaders.
"	IX ... ..	Harbours
1849.	X ... ..	Commissioners of Revenue
1852.	VII ... ..	Penalties for breach of Salt Laws.
1853.	XX ... ..	Pleaders.
1855.	X ... ..	Section 10—Recusant witnesses
"	XXI ... ..	Minors
1857.	VII ... ..	Uncovenanted Agency.
1858.	I ... ..	Compulsory Labour
"	XIV ... ..	Minors
1859.	XXIV ...	Police
1860.	XXVIII ...	Boundary Marks.
1869.	XI ... ..	Land Customs.

## THIRD SCHEDULE.

(See Section 5).

## (a).—BOMBAY REGULATIONS.

YEAR AND NUMBER.		SUBJECT
1827.	II ... ..	Section 21 (caste questions) ; Sections 47 to 54 (inclusive) and Section 56 (pleaders).
"	IV .. .	Section 26 (law applicable to suits) ; Section 69, clauses second and third (attachment and distraint of crops).
"	V ... ..	Preamble : Section 9 (acknowledgments of debt) ; Section 14 (interest) ; Section 15, (mortgages and pledges).
"	VIII ...	Administration of Estates.
"	XII ... ..	Preamble ; Section 19 (Magistrate's power to make rules) ; Section 20 (standards of weights and measures) ; Section 27, clause 2 (supervision of suspected persons) ; Section 37, clauses first and second (responsibility of villages for robberies)
"	XIII ...	Section 34, clause third (letter substituted for summons).
"	XVI ... ..	Revenue Administration.
"	XXI ... ..	Sections 1 to 16, inclusive (Duty on opium) ; Sections 6, 54 to 66, inclusive (spirits) Sections 67, to 73, inclusive, (penalties).

**THIRD SCHEDULE—continued**  
(a)—BOMBAY REGULATIONS—continued

YEAR AND NUMBER		SUBJECT
1827	XXII .	Section 18 (Furnishing false certificates to soldiers) : Section 19 (buying uniform, arms, &c) : Section 20 (recovery of value of embezzled stores) : Sections 40, 41, 42, 43 (passage of troops) : Sections 45, 46, 47 (requisitions for Military aid)
"	XXV . ...	State Prisoners
1830	V . .	Section 1 (Revenue Commissioners) : Section 2, clauses 1 2, 3 (Collectors and Sub-Collectors).
"	XIII .	Civil jurisdiction or Jagirdars
1831	XV .	Village Patels
1832	II ..	Realization of Revenue
1833.	V	Hereditary Officers

(b)—ACTS OF THE SUPREME COUNCIL RELATING TO THE BOMBAY PRESIDENCY.

YEAR AND NUMBER		SUBJECT
1833,	XVI .	Judiciary
"	XVIII .	Sureties
"	XIX .	Coasting Vessels
1839,	XX ..	Revenue
1840,	XV . ...	Agents of Foreign Sovereigns
1842,	XIII ..	Revenue
"	XVII ...	Revenue Commissioners
1843,	XI .	Hereditary Officers
1844,	XIX ..	Abolition of Town Duties
1846,	I .	Pleaders
"	III .	Sections 1, 5 and 6—Boundary Marks.
1852,	III .	Spirituous Liquors.
"	XXI .	Deputy Collectors.
1853,	XX .	Pleaders
1855,	X .	Section 10—Recusant Witnesses
1856,	VIII ..	Control of Gaols
1864,	XX ...	Minors

**FOURTH SCHEDULE**

(See Section 6)

(a)—BENGAL REGULATIONS (LOWER PROVINCES).

YEAR AND NUMBER		SUBJECT
1793,	I ..	Perpetual Settlement
"	II ...	Collection of Land revenue
"	VIII ..	Rules for Decennial Settlement
"	XI .	Native laws of inheritance to Revenue-paying land
"	XIX .	Title to lands exempt from Revenue
"	XXXVII ..	Title to lands exempt from Revenue under badshahi grants
"	XXXVIII ...	Section 1—Preamble Section 2—Prohibition of loans by Covenanted Servants
"	XLVIII ...	Quinquennial Register of Revenue-paying lands
1794,	III .	Sections 12, 13, 16, 17, 8, 19 and 20—Arrears of Revenue
1797,	XV .	Fees for keeping Revenue Records
1798,	I .	Conditional Sales of Land
1799,	V .	Wills and Intestacies of Natives
1800,	VIII .	Pargana Register of Lands
1801,	I .	Arrears of Revenue Division of Joint Estates.
1804,	X ...	Punishment by Courts Martial of certain State offences.
1806,	IX .	Passage of Troops
"	XVII ...	Sections 7 and 8—Mortgages and conditional sales.
1810,	XIX ..	Maintenance of Bridges, &c. ; ...
"	XX ...	Camp-followers, Bazars, &c ; Cantonments

FOURTH SCHEDULE—*continued*(a).—BENGAL REGULATIONS (LOWER PROVINCES)—*continued*

YEAR AND NUMBER		SUBJECT
1811,	XI	Revision of panna on lands ordered to be divided
1812,	V	Collection of Land Revenue
"	XI	Removal of Foreign Immigrants
1814	XIX	Partition of Revenue paying Estates
1817,	XX	Section 28—Abolition Section 29—Criminal process in Salt and Opium Departments Section 30 (clauses 1, 2 and 5)—Building for collecting sepoy's and stores, Firing on roads Section 32—Despatches of treasure
1818,	III	State Prisons
1819,	II	Reclamation of Revenue free lands
"	VI	Ferries
1821,	IV	Power of Collectors and Magistrates
1822,	III	Power of Land revenue
"	XI	Section 30—His management of purchases by Govern- ment Section 31—Liability of Government for costs of Courts
1823,	VI	Indigo Contracts
"	VII	Prohibition of claim to Counted Civil Servants
1825,	VI	Transfer of Appeals
"	IX	Defendants' Malpractices
"	XI	Alluvion and Alluvion
"	XIII	Settlement of Revenue and Indigo Land
"	XIV	Authority to confirm Lukhmag tenures Native grants
1827,	III	Section 5—Lukhmag
"	V	Management of Estates under attachment
1828,	III	Appeals from decisions of Revenue Authorities
"	IV	Section 1 and Section 2 clause 1—Time during which Collec- tors are to be considered engaged in making settlement.
1829,	I	Commissioners of Revenue and Board of Revenue
"	XVII	Wild burning
1830,	V	Sections 1 and 5—Indigo Contracts

## (b).—ACTS OF THE SUPREME COUNCIL RELATING TO THE LOWER PROVINCES

YEAR AND NUMBER		SUBJECT
1836,	X	Indigo Contracts
"	XX	Batwaras
"	XXI	Creating Zilats
1838,	XI	Demarcation of Amalgamating Partitions
1841,	XII	Section 2—No Interest on Arrears of Land-revenue
1847,	IX	Assessment of new lands
1848,	XX	Land revenue
1850,	XLIV	Board of Revenue
1853,	XIX	Section 26—Recurrent witnesses
1855,	XXXII	Embankments
1856,	XII	Civil Court Amins
"	XX	Chaukidars
"	XXI	Abkari
1857,	XIII	Opium
1858,	XXXI	Settlement of Alluvion
"	XL	Minors
1859,	XI	Sales for Arrears of Revenue
1860,	XXIII	Abkari

## FIFTH SCHEDULE

(See Section 7)

## (a).—BENGAL REGULATIONS (NORTH-WESTERN PROVINCES).

YEAR AND NUMBER	SUBJECT.
1793, XXXVIII . . . .	Section 1, Preamble . Section 2—Prohibition of loans by Covenanted Servants
1798, I . . . .	Conditional sales of land
1799, V . . . .	Wills and administration to Natives
1804, X . . . .	Punishment by Courts Mutia of certain State Offences.
1806, XI . . . .	Passage of Troops
" XVII . . . .	Sections 7 and 8—Mortgages and conditional sales.
1810, XIX . . . .	Maintenance and Repair of Bridges, &c.; Escheats.
" XX . . . .	Camp followers, Bazaris, Cantonments.
1812, XI . . . .	Removal of Foreign Emigrants.
1817, V . . . .	Hidden Treasure
1818, III . . . .	State Prisoners
1819, VI . . . .	Ferries
1822, XI . . . .	Section 38—Non-liability of Government for errors of Courts
1823, VI . . . .	Indigo Contracts
" VII . . . .	Prohibition of loans to Covenanted Civil Servants.
1825, VI . . . .	Passage of Troops
" XI . . . .	Alluvion and Dereliction
" XX . . . .	Courts Martial and Courts of Requests
1827, III . . . .	Section 5—Evidence
" V . . . .	Management of Estates under Attachment.
1829, XVII . . . .	Widow burning
1830, V . . . .	Sections 1 and 5—Indigo Contracts.
1831, VI . . . .	Section 6—Sadri Adalat
" XI . . . .	Sections 1, 2, 4, 5, 6, 8—Police-powers of Tahsildars.
1833, IX . . . .	Deputy Collectors.

## (b).—ACTS OF THE SUPREME COUNCIL RELATING TO THE NORTH-WESTERN PROVINCES.

YEAR AND NUMBER	SUBJECT.
1836, X . . . .	Indigo Contracts.
" XXI . . . .	Creating Zilas
1853, XIX . . . .	Section 26—Joculant witnesses
1854, XVI . . . .	Police
1856, XII . . . .	Civil Court Amins.
" XX . . . .	Chaukidars
1857, XIII . . . .	Opium
1858, XL . . . .	Minors

## SIXTH SCHEDULE

(See Sections 2, 3, 4, 5, 6 and 7)

## PART I

## SCHEDULED DISTRICTS, MADRAS.

## I.—In Ganjam.

- (1). The Gumsur Maliahs, including Chokapad.
- (2). The Surada Maliahs.
- (3). The Chinna Kimeri Maliahs
- (4). The Pedda Kimeri Maliahs
- (5). The Bodaguda Maliahs
- (6). The Surangi Maliahs
- (7). The Parla Kimeri Maliahs
- (8). The Muttas of Korada and Ronaba (otherwise called Srikarma).
- (9). The Unghatti Maliah
- (10). The Jurada Maliah
- (11). The Jalantia Maliah
- (12). The Mandasa Maliah
- (13). The Budarasinghi Maliah.
- (14). The Kuttinga Maliah.



## II —In Vizagapatam

- (1) The Jeypur Zamindari,
- (2) Golconda Hills, west of the River Boderu
- (3) The Madugol Mahals
- (4) The Kasipur Zamindari,
- (5) The Panchipenta Mahals
- (6) Mondemkolla, in the Merangi Zamindari
- (7) The Konda Kutta of Belgam
- (8) The Gumma and Konda Muttas of Kurpam.
- (9) The Kottam, Rám, and Konda Muttas of Pálkonja.

## III —In the Godavari District

- (1) The Bhadrachalam Taluq
- (2) The Rakapilli Taluq
- (3) The Rampa Country

## IV —In the Indian Ocean

The Laccadive Islands, including Minicoy

## PART II

## SCHEDULED DISTRICTS, BOMBAY.

- I —The Province of Sindh
- II —The Panch Mahals\*
- III —Aden
- IV —The villages belonging to the following Mehwassi chiefs —
  - (1) The Parvi of Káthi
  - (2) The Parvi of Nal
  - (3) The Parvi of Singhpur
  - (4) Walvi of Gaoballi
  - (5) The Wassáwa of Chikhli
  - (6) The Parvi of Nawalpur

## PART III

## SCHEDULED DISTRICTS, BENGAL

- I —The Jalpugori and Darjeeling Divisions
- II —The Hill tracts of Chittagong
- III —The Santhal Parganas
- IV —The Chutia Nagpur Division
- V —The Mahals of Angul and Banki

## PART IV

## SCHEDULED DISTRICTS, NORTH-WESTERN PROVINCES

- I —The Jhansi Division, comprising the Districts of Jhansi, Jalaun and Lalatpur.
- II —The Province of Kumáon and Gharwál
- III —The Terai Parganas, comprising—Bazpur, Kashipur, Jaspur, Rudarpur, Gadarpur, Kili-puri, Nának-Mátta and Bilheri
- IV.—In the Mirzápur District —
  - (1) The tappás of Agori Khás and South Kon in the Pargana of Agori
  - (2) The tappá of British Singrauli in the Pargana of Singrauli
  - (3) The tappás of Phulwá, Dudhi and Barhá in the Pargana of Bishipár
  - (4) The portion lying to the South of the Kaimor Range

- \* \* \* \* \*
- VI The tract of country known as Jaunsar Báwar in the Dehra Dun District

## PART V

## SCHEDULED DISTRICTS, PUNJAB

The Districts of Hazara, Peshawar, Kohat, Bannu, Dera Ismail Khan, Dera Ghazi Khan, Lahaul, and Spiti

\* See Act VII of 1885, Section 4.

PART VI  
SCHEDULED DISTRICTS, CENTRAL PROVINCES,  
*Chhattisgarh Zamindaris*

1. Kharai	13. Matin
2. Bindra Nowágarh	14. Uprorá
3. Sahazpur	15. Kendá
4. Gándá	16. Laphá
5. Silhetí	17. Chhúrí
6. Barbaspur	18. Korbá
7. Thakurtola	19. Chapa
8. Lohará	20. Borá Sámbar.
9. Gondaldehí	21. Phuljhar
10. Fingewat	22. Kolabí á
11. Pandaná	23. Rampúr
12. Pendiá	

*Chanda Zamindaris*

1. Abhi	11. Muramgaon
2. Ambágarh Chaurí	12. Panábáras
3. Aundhi	13. Palasgarh
4. Dhanora	14. Ríngi
5. Dudhmula	15. Susutdi
6. Gewarti	16. Sonvri
7. Jhansapuri	17. Chándala
8. Khutlaon	18. Gilzáon
9. Kotáha	19. Páwi Mutánda
10. Kotgil	20. Patgaon

*Chhindwara Jagulnis*

1. Harai	7. Pachmarhi
2. Chhátar	8. Partágarh
3. Garakhghat	9. Almod
4. Gorpani	10. Sonpur
5. Baktigarh	11. Bann Pagará
6. Bardagarh	

PART VII

The Chief Commissionership of Corg

PART VIII

The Chief Commissionership of the Andaman and Nicobar Island

PART IX

The Chief Commissionership of Ajmer and Mairwáta

PART X

The Chief Commissionership of Assam

PART XI

The Hill Tracts of Arakan

PART XII

The Pargana of Mánpur

PART XIII

The Cantonment of Morar

**ACT No V of 1875**

(Passed on the 9th February 1875).

An Act to remove doubts as to the rights and liabilities of certain Native Soldiers.

Whereas doubts have arisen as to the rights and liabilities of certain Native Soldiers who have been enrolled without having been attested, and it is expedient to remove such doubts ; It is hereby enacted as follows :—

Preamble

1. Every person who has, for the space of six months, been in the receipt of military pay and been borne on the rolls of any Regiment, Corps, Depôt, Ordnance Establishment, or Department of Her Majesty's Indian Army (of which the last pay-statement, if produced, shall be evidence), shall be deemed to have been duly enlisted, enrolled, and attested, and shall not be entitled to claim his discharge on the ground of illegality or irregularity in his enlistment, enrolment or attestation, or on any other ground save such as may be recognized by the orders and customs of the service.

### ACT No. IX of 1875.

(Passed on the 2nd March 1875).

An Act to amend the Law respecting the age of Majority.

Whereas in the case of persons domiciled in British India, it is expedient to prolong the period of nonage, and to attain more uniformity and certainty respecting the age of majority than now exists ; It is hereby enacted as follows :—

Short title                      1. This Act may be called “ The Indian Majority Act, 1875 :”

It extends to the whole of British India, and, so far as regards subjects of Her Majesty, to the dominions of Princes and States in India in alliance with Her Majesty ;

Local extent                      and it shall come into force and have effect on the expiration of three months from the passing thereof.

Commencement and operation                      2. Nothing herein contained shall affect—

(a) the capacity of any person to act in the following matters (namely),—Marriage, Dower, Divorce and Adoption ;

(b) the religion or religious rites and usages of any class of Her Majesty's subjects in India, or

(c) the capacity of any person who before this Act comes into force has attained majority under the law applicable to him.

3. Subject as aforesaid, every minor of whose person or property a guardian has been or shall be appointed by any Court of Justice, and every minor under the jurisdiction of any Court of Wards shall, notwithstanding anything contained in the Indian Succession Act (No. X of 1865) or in any other enactment, be deemed to have attained his majority when he shall have completed his age of twenty-one years and not before ;

Age of majority of persons domiciled in British India                      Subject as aforesaid, every other person domiciled in British India shall be deemed to have attained his majority when he shall have completed his age of eighteen years and not before.

4. In computing the age of any person, the day on which he was born is to be included as a whole day, and he shall be deemed to have attained majority, if he falls within the first paragraph of section three, at the beginning of the twenty-first anniversary of that day, and if he falls within the second paragraph of section three, at the beginning of the eighteenth anniversary of that day.

*Illustrations*

(a) Z is born in British India on the first day of January 1850, and has a British Indian domicile. A guardian of his person is appointed by a Court of Justice. Z attains majority at the first moment of the first day of January 1871.

(b) Z is born in British India on the twenty-ninth day of February 1852, and has a British Indian domicile. A guardian of his property is appointed by a Court of Justice. Z attains majority at the first moment of the twenty-eighth day of February 1873.

(c) Z is born on the first day of January 1850. He acquires a domicile in British India. No guardian is appointed of his person or property by any Court of Justice, nor is he under the jurisdiction of any Court of Wards. Z attains majority at the first moment of the first day of January 1868.

**ACT No. X of 1875.**

*(Passed on the 9th March 1875).*

An Act to regulate the Procedure of the High Courts in the exercise of their original criminal jurisdiction.

\* \* \* \* \*

**144.** The Advocate General may, with the previous sanction of the Advocate General may Governor-General in Council or the Local Government, exhibit to the local High Court, against persons subject to the jurisdiction of the said Court, informations for all purposes for which Her Majesty's Attorney-General may exhibit informations on behalf of the Crown in the Court of Queen's Bench or Exchequer.

Such proceedings may be taken upon every such information as may lawfully be taken in case of similar informations, filed by Her Majesty's Attorney-General in England, so far as the circumstances of the case and the course and practice of proceeding in the said High Courts, respectively, will admit.

All fines, penalties, forfeitures, debts and sums of money recovered or levied under or by virtue of any such information shall belong to the Government of India.

\* \* \* \* \*

**146.** At any stage of any proceeding under this Act, before the return Power to enter *nolle prosequi*. of the verdict, the Advocate-General may, if he think fit, inform the Court on behalf of Her Majesty that he will not further prosecute the defendant upon the information or charge; and thereupon all proceedings on such information or charge against the defendant shall be stayed, and he shall be discharged of and from the same. But such discharge shall not amount to an acquittal.

NOTE.—Act X of 1882 repeals the whole of the above Act except Section 144 and so much of Section 146 as relates to informations.

**ACT No. XIII of 1875.**

*(Passed on the 15th March 1875).*

An Act to amend the law relating to Probates and Letters of Administration.

Whereas, under the Indian Succession Act, 1865, the effect of an unlimited grant of probate or letters of administration made by any Court in British India is confined to the Province in which such grant is made: And whereas it is expedient to extend over British India the effect of such grants when made by a High Court: And whereas it is also expedient to amend the Court Fees Act, 1870, as to probates, letters of administration, and certificates of administration: It is hereby enacted as follows:—

Preamble.

1. To Section 3 of the Indian Succession Act, 1865, the following words shall be added (namely) :—“ and for the purposes of Sections 242, 242A, 246A, and 277A, shall include the Court of the Recorder of Rangoon.

Addition to Act No. X of 1865, Section 242.

2. To Section 242 of the Indian Succession Act, 1865, the following proviso shall be added (namely) :—

“Provided that probates and letters of administration granted by a High Court after the first day of April, 1875, shall, unless otherwise directed by the grant, have like effect throughout the whole of British India.”

Addition to Act No. X of 1865.

3. The following section shall be inserted after the said proviso (namely):—

(See S. 242A, *ante*, p. 263).

Addition after Section 246 of Act X of 1865

4. After Section 246 of the Indian Succession Act, 1865, the following section shall be inserted (namely) :—

(See S. 246A, *ante*, p. 265).

Addition after Section 277 of Act X 1865

5. After Section 277 of the Indian Succession Act, 1865, the following section shall be inserted (namely) :—

(See S. 277A, *ante*, p. 272)

Addition to Act No. VII of 1870.

6. After section nineteen of the Court Fees Act, 1870, the following chapter shall be inserted (namely) :—

(See Chapter III A, *ante*, p. 454)

NOTE.—See Act II of 1877

### ACT No. XV of 1875.

(Passed on the 15th July 1875).

An Act to amend the Punjab Laws Act, 1872.

Whereas, in order to provide for the establishment of Rural Police and for the more efficient administration of law in the Punjab, it is expedient to amend the Punjab Laws Act, 1872 ; It is hereby enacted as follows:—

Short title.

1. This Act may be called “The Punjab Laws Amendment Act, 1875.”

Local extent.

It extends to the territories for the time being under the Government of the Lieutenant-Governor of the Punjab ;

Commencement.

And it shall come into force at once.

NOTE.—This Act consists of the above section and two others. The latter have been incorporated in their proper places with Act IV of 1872, and it is unnecessary to reprint them here.

**Act No. XVIII of 1875.**

*(Passed on the 13th October 1875).*

**An Act for the improvement of Law Reports.**

Whereas it is expedient to diminish the multitude and expense of the law reports published in British India, and to improve their quality : And whereas, with a view to furthering these objects, the Governor-General in Council proposes to authorize the publication of reports of cases decided by the High Courts of Judicature established under the 24th & 25th of Victoria, Chapter 104 ; It is hereby enacted as follows :—

Short title

1. This Act may be called “The Indian Law Reports Act, 1875.

Local extent

It extends to the whole of British India ;

Commencement.

And it shall come into force on such day as the Governor-General in Council notifies in this behalf in the *Gazette of India*.

NOTE.—The Act came into force on the 1st January 1876. —(See *Government of India Notification No. 22, dated 23rd November 1875, Gazette of India of 27th idem*)

2. *Repealed by Act XII of 1876.*

3 No Court shall be bound to hear cited, or shall receive or treat as an authority binding on it, the report of any case decided by any of the said High Courts on or after the said day, other than a report published under the authority of the Governor-General in Council.

4. Nothing herein contained shall be construed to give to any judicial decision any further or other authority than it would have had if this Act had not been passed.

NOTE.—For rules regarding the publication of the Indian Law Reports, see *Government of India Notification No. 14, dated 7th August 1885, Gazette of India of 8th idem, Part I, page 431.*

**ACT No. V of 1876.**

*(Passed on the 29th February 1876).*

**An Act to provide Reformatory Schools.**

Preamble

Whereas it is expedient to provide Reformatory Schools for male youthful offenders ; It is hereby enacted as follows :—

*I.—Preliminary.*

Short title

1. This Act may be called “The Reformatory Schools Act, 1876” :

Local extent

It extends to the whole of British India ;

And it shall come into force in each Province of British India on such day as the Local Government by notification in the official Gazette directs in that behalf.

Commencement

NOTE.—The Act has never been brought into force in the Punjab. See Judicial Circular No. LXIII.

Section 318 of Code of Criminal Procedure repealed.

2. On and from that day Section 318 of the Code of Criminal Procedure shall be repealed therein.

Interpretation-clause.

### 3. In this Act—

“Youthful offender” means any boy who, being at the time under the age of sixteen years, has been convicted of any offence punishable with imprisonment or transportation :

“Inspector-General” includes any officer appointed by the Local Government to perform all or any of the duties imposed by this Act on the Inspector of Jails.

### II.—Reformatory Schools.

Power to establish and discontinue Reformatory Schools.

4. With the previous sanction of the Governor-General in Council, the Local Government may—

(a) establish Reformatory Schools at such places as it thinks fit,

(b) use as Reformatory Schools schools kept by persons willing to act in conformity with such rules consistent with this Act as the Local Government may, from time to time, prescribe in this behalf,

(c) direct that any school so established or used shall cease to exist as a Reformatory School or to be used as such.

Requisites of schools.

5. Every school so established or used must provide—

(a) sufficient means of separating the inmates at night ;

(b) proper sanitary arrangements, water-supply, food, clothing, and bedding for the youthful offenders detained therein ;

(c) the means of giving such offenders industrial training ;

(d) an infirmary or proper place for the reception of such offenders when sick.

6. Every Reformatory School shall, before being used as such, be inspected by the Inspector-General of Jails; and if he reports that the requirements of section five have been complied with, and that, in his opinion, such school is fitted for the reception of such youthful offenders as may be sent there under this Act, he shall certify to that effect, and such certificate shall be published in the local official Gazette, and the school shall thereupon be deemed a Reformatory School.

Every such school shall, from time to time, and at least once in every year, be visited by the said Inspector-General, who shall send to the Local Government a report on the condition of the school in such form as the Local Government may from time to time prescribe.

7. Whenever any youthful offender is sentenced to transportation or imprisonment, and is in the judgment of the Court by which he is sentenced (a) under the age of sixteen years, and (b) a proper person to be an inmate of a Reformatory School, the Court may direct that, instead of undergoing his sentence, he shall be sent to a Reformatory School, and be there detained for a period which shall be not less than two years and not more than seven years, and which shall be in conformity with any rules made under section twenty-two and for the time being in force.

The powers so conferred on the Court shall be exercised only by (a) the High Court, (b) the Court of Session, (c) a Magistrate of the first class, and (d) a Magistrate of Police or Presidency Magistrate in the towns of Calcutta, Madras and Bombay.

8. Whenever any youthful offender under the age of sixteen years has been or shall be sentenced to imprisonment, the officer in charge of the Jail in which such offender is confined may bring him before the Magistrate within whose jurisdiction such Jail is situate; and the Magistrate, if he thinks the offender (a) under the age of sixteen years, and (b) a proper person to be an inmate of a Reformatory School, may direct him to be sent to a Reformatory School, and to be there detained for a period which shall be not less than two and not more than seven years, and which shall be in conformity with any rules made under section twenty-two and for the time being in force

In this section "Magistrate" means in the towns of Calcutta, Madras and Bombay, a Magistrate of Police or Presidency Magistrate, and elsewhere a Magistrate of the first class.

9. Every youthful offender so directed by a Court or Magistrate to be sent to a Reformatory School shall be sent to such Reformatory School as the Local Government may, from time to time, appoint for the reception of youthful offenders so dealt with by such Court or Magistrate.

10. Nothing contained in section seven, eight, or nine shall be deemed to authorize the detention in a Reformatory School of any person after he is proved to be above the age of eighteen years.

11. The Local Government may at any time order any youthful offender—

(a) to be discharged from a Reformatory School;

(b) if so discharged before the expiration of his sentence, to undergo the residue of such sentence at such place as the Local Government thinks fit; or

(c) to be removed from one Reformatory School to another such school situate within the territories subject to such Government, but so that the whole period of his detention in a Reformatory School shall not be increased by such removal.

### III.—Management of Reformatory Schools.

12. For the control and management of every Reformatory School, the Local Government shall appoint either (a) a Superintendent and a Committee of Visitors, or (b) a Board of Management.

Every Committee and every Board so appointed must consist of not less than five persons, of whom two at least shall be Natives of India.

The Local Government may, from time to time, suspend or remove any Superintendent or any Member of a Committee or Board so appointed.



**13.** Every Superintendent so appointed may permit any youthful offender sent to a Reformatory School who has attained the age of fourteen years, by license under his hand, to live under the charge of any trustworthy and respectable person named in the license, or any officer of Government or of a Municipality, being an employer of labour and willing to receive and take charge of him, on the condition that the employer shall keep such offender employed at some trade, occupation, or calling.

The license shall be in force for three months and no longer, but may, at any time before the expiration of the period for which the offender has been directed to be detained, be renewed from time to time for three months.

**14.** The license shall be cancelled at the desire of the employer named in the license ;

and if it appears to the Superintendent that any complaint made by the employer of misconduct on the part of the youthful offender is just, no other license in respect of the same offender shall be given until twelve months after the expiration of the former license.

**15.** If during the term of the license the employer named therein die, or cease from business, or the period for which the youthful offender has been directed to be detained in the Reformatory School expires, the license shall thereupon cease and determine.

**16.** If it appears to the Superintendent that the employer has ill-treated the offender, or has not adequately provided for his lodging and maintenance, the Superintendent may cancel the license.

**17.** The Superintendent of any Reformatory School shall be deemed to be the guardian of every youthful offender detained in such school, within the meaning of Act No XIX of 1850 (*concerning the binding of apprentices*) ;

and if it appear to the Superintendent that any such offender licensed under section thirteen has behaved well during one or more periods of his license, the Superintendent may apprentice him under the provisions of the said Act, and on such apprenticeship the right to detain such offender in the School shall cease, and the unexpired term (if any) of his sentence shall be cancelled.

**18.** Every Committee of Visitors appointed under section twelve for any Reformatory School shall, at least once in every month,

(a) visit the school, to hear complaints and see that the requirements of section five have been complied with, and that the management of the school is proper in all respects,

(b) examine the punishment-book,

(c) bring any special cases to the notice of the Inspector-General, and

(d) see that no person is illegally detained in the school.

**19.** If in exercise of the power conferred by section twelve, the Local Government appoints a Board of Management for any Reformatory School, such Board shall have the powers and perform the functions of the Superinten-

dent under sections thirteen to seventeen, both inclusive ; and the license mentioned in section thirteen may be under the hand of their chairman ; and they shall be deemed to be the guardians of the youthful offenders detained in such school.

**20.** The Local Government may declare any body of Trustees or Managers of a school, who are willing to act in conformity with the rules referred to in section four, clause (b), to be a Board of Management under this Act, and thereupon such body or Managers shall have all the powers and perform all the functions of such Board of Management.

Power to appoint trustees or other managers of a school to be a Board of Management

**21.** With the previous sanction of the Local Government, every Board of Management of a Reformatory School may from time to time make rules consistent with this Act to regulate—

Power of Board to make rules

- (a) the conduct of business of the Board,
- (b) the management of the school,
- (c) the education and industrial training of youthful offenders,
- (d) visits to and communication with youthful offenders,
- (e) punishment for offences committed by youthful offenders,
- (f) the granting of licenses for employment of youthful offenders.

In the absence of a Board of Management, the Local Government may, from time to time, make rules consistent with this Act to regulate for any Reformatory School the matters mentioned in clauses (b), (c), (d), (e) and (f) of this section, and also the mode in which the Committee of Visitors shall conduct their business.

**22.** The Governor-General in Council may, from time to time, make rules consistent with this Act for regulating the periods for which Courts and Magistrates may send youthful offenders to Reformatory Schools according to their ages, the nature of their respective offences, or other considerations.

Power of Government of India to make rules

All rules made under this section shall be published in the *Gazette of India*.

#### IV.—Offences in relation to Reformatory Schools.

**23.** Whoever abets an escape, or an attempt to escape, on the part of a youthful offender from a Reformatory School, or from the employer of such offender, shall be punishable with imprisonment for a term which may extend to six months, or with fine not exceeding one hundred rupees, or with both.

Penalty for abetting escape of youthful offenders

**24.** A Police officer may, without orders from a Magistrate, and without a warrant, arrest any youthful offender sent to a Reformatory School under this Act, who has escaped from such school, or from his employer, and take him back to such school or to his employer.

Arrest of escaped youthful offenders

## ACT No. IX of 1876.

(Passed on 28th March 1876).

An Act to enable the Government of India to declare certain coins of Native States to be a legal tender in British India.

Whereas it is expedient to enable the Governor-General in Council to declare that a tender of payment of money, if made in certain coins made for or issued by Native States, shall be a legal tender in British India ; It is hereby enacted as follows :—

Short title

1. This Act may be called “ The Native Coinage Act, 1876.”

Local extent

It extends to the whole of British India ;

Commencement

And it shall come into force at once.

2. In this Act “ Native State” means any State in India which is under the protection or political control of Her Majesty, or of which the Government shall have acknowledged the supremacy of the British Crown.

Interpretation-clause

3. Subject to the provisions of section four, the Governor-General in Council may, from time to time, by notification in the *Gazette of India*, declare that a tender of payment of money, if made in the coins, or the coins of any specified metal, made under this Act for any Native State, shall be a legal tender in British India ;

Power to declare that the coins of a Native State shall be legal tender

and the provisions of the Indian Coinage Act, 1870, shall apply to the coins to which such notification refers, so far as such provisions are applicable thereto, and save as expressly provided by such notification.

NOTE.—See Note at end of Act.

4. The power conferred by the first clause of section three shall be exercisable only when the coins referred to in such notification comply with the following conditions (that is to say)—

When such power may be exercised

in the case of coins of gold, silver, or bronze,

(a) their fineness is identical with that for the time being prescribed by law for coins of the Government of India of the same metal ;

in the case of coins whether of gold, silver, bronze, or copper,

(b) they are identical in weight with some coins of the Government of India of the same metal, which may for the time being be legally coined at any Mint of the Government of India, or bear such relation thereto as is approved by the Governor-General in Council ;

(c) the devices upon their obverse and reverse differ from the devices on coins now made or issued by any such Native State, and have been approved by the Governor-General in Council ;

(d) upon each of such coins its value in money of the Government of India is inscribed in the English language ;

(e) the Native State for which they are coined has undertaken to abstain, during a term of not less than thirty years from the date of the notification, from coining in its own Mint gold, silver, bronze, or copper as the case may be, and has also undertaken that no coins resembling coins for

the time being a legal tender in British India shall, after the expiration of the said term, be struck under its authority or with its permission at any place within or without its jurisdiction ;

(f) such State has formally declared that a tender of payment of money, if made in coins of the Government of India of the same metal, shall, in the territories subject to such State, be a legal tender in the cases in which payment made in such coins would, under the law for the time being in force, be a legal tender in British India ;

(g) such State has also agreed that the law and rules for the time being in force respecting the cutting and breaking of coin of the Government of India reduced in weight by reasonable wearing or otherwise, or counterfeit, or called in by proclamation, shall apply to the coins made for such State under this Act, and that it will defray the cost of cutting and breaking them ; and

(h) such State has also agreed not to issue the same coins below their nominal value, and not to allow any discount or other advantage to any person in order to bring them into circulation.

5. It shall be lawful for any such State to send to any Mint in British India metal to be made into coin under this Act ; and, subject to the Mint-rules for the time being in force, and to the provisions hereinafter contained, the Mint-Master shall receive such metal and convert it into coin, provided that it be fit for coinage.

Nothing herein contained shall be deemed to entitle any such State to have coins made under this Act at any Mint of the Government of India of any metal which is not for the time being legally coined at such Mint.

6. The Governor-General in Council may impose on any metal sent to a mint for coinage under this Act the duty (if any) leviable on the same metal under the Indian Coinage Act, 1870, and also a charge sufficient to defray the expenses of coinage over and above the expenses of assay and refining ; and the Mint-Master shall coin such metal at the charge so imposed.

7. The Governor-General in Council may, from time to time, with reference to the reasonable requirements of the population of any Native State, fix the maximum number of any coins of any particular metal that shall be coined under this Act.

NOTE.—Whereas His Highness the Maharao Raja of Alwar (Alwar being a Native State within the meaning of the Native Coinage Act, 1876) has, pursuant to the authority contained in Section 5 of the said Act, sent to the Mint of Calcutta silver to be coined under the said Act into two lakhs of rupees, and has requested the Governor-General of India in Council to declare that a tender of payment of money, if made in the said coins, shall be a legal tender in British India : And whereas the said silver has been coined into rupees and their fineness is identical with that prescribed by law for rupees of the Government of India, and they are identical in weight with the rupees of the Government of India, and the devices upon their obverse and reverse differ from the devices on coins now made or issued by the said State, and have been approved by the Governor-General in Council, and upon each of such rupees its value in money of the Government of India is inscribed in the English language : And whereas His Highness the said Maharao Raja of Alwar has for himself and his successors undertaken to abstain during a term of thirty years from the date of this notification from coining silver in his own Mint, and has also undertaken that no coins resembling silver coins for the time being a legal tender in British India, shall, after the expiration of the said term, be struck under the authority of himself or his successors or with his or their permission at any place within or without his or their jurisdiction : And whereas His Highness the said

Maharao Raja of Alwar has formally declared that a tender of payment of money if made in silver coins of the Government of India shall, in the territories subject to His Highness be a legal tender in cases in which payment made in such coins would, under the law for the time being in force, be a legal tender in British India : And whereas His Highness the said Maharao Raja of Alwar has agreed for himself and his successors that the law and rules for the time being in force respecting the cutting and breaking of coin of the Government of India reduced in weight by reasonable wearing or otherwise, or counterfeit, or called in by proclamation, shall apply to the coins made for the said State under the said Act, and that the said State will defray the cost of cutting and breaking them : And whereas His Highness the said Maharao Raja of Alwar has also agreed for himself and his successors not to issue the said coins below their nominal value, and not to allow any discount or other advantage to any person in order to bring them into circulation : And whereas His Highness the said Maharao Raja of Alwar has also agreed for himself and his successors that if at any time the Government of India calls in its coinage of rupees, His Highness or his successors will, if so requested by the Government of India, call in, at his or their own expense, all the said rupees so coined for him :

The Governor-General of India in Council, in consideration of the premises and in exercise of the power conferred by the Native Coinage Act, 1876, section three, is pleased to declare that a tender of payment of money, if made in the said rupees coined under the said Act for the said State of Alwar, shall, subject to the provisions of the Indian Coinage Act, 1876, be a legal tender in British India —(*Government of India No 537F, dated 9th November 1877*).

A similar notification has been issued regarding copper coins made under the Act for circulation in the state of Dhar — (*No 171—I, dated 13th January 1888, Gazette of India of 14th idem, Part I, page 18*)

### ACT No. XI of 1876.

(*Passed on the 11th April 1876*).

An Act for constituting and regulating the Banks of Bengal, Madras, and Bombay.

Whereas the Bank of Bengal is now constituted and regulated by Act No. IV of 1862, as amended by Acts No. VI of 1862 and No. XIX of 1870, and its capital consists of twenty-two millions of rupees, in shares of one thousand rupees each ;

And whereas the Bank of Madras is now constituted and regulated by Madras Act No. VI of 1866, as amended by Madras Act No. I of 1871, and its capital consists of five millions six hundred and twenty-five thousand rupees, in shares of one thousand rupees each ;

And whereas a Bank named the Bank of Bombay was constituted and regulated by Bombay Act No. X of 1863, as amended by Bombay Acts No. XV of 1866 and No. I of 1867 ; but such Bank has been wound up, and the said Bombay Acts are now obsolete and should be expressly repealed ;

And whereas on the tenth day of December 1867, a joint-stock Banking Company was registered and incorporated at Bombay, by virtue of the Indian Companies' Act, 1866, under the name of "The New Bank of Bombay, Limited," with a Memorandum of Association and Articles of Association then also registered, and prescribing the constitution and regulations for the management of such Bank ;

And whereas the Government of India now holds two thousand two hundred shares in the said Bank of Bengal, and five hundred and sixty-two and a half shares in the said Bank of Madras ; and under the provisions of the said Act No. IV of 1862 and Madras Act No. VI of 1866, is bound to appoint, and has power to remove, certain of the directors of the said Banks of Bengal and Madras respectively, and has also power to give a proxy to any person whom the Governor-General in Council may appoint, to attend and vote at any meeting of the proprietors of each of the same Banks ;

And whereas the Government of India has determined to sell its said shares and to surrender its said powers ; and it is expedient to relieve the said Government from the said duty of appointing directors, and to repeal the said enactments and to consolidate such of them as relate to the said Banks of Bengal and Madras respectively, with the changes rendered necessary or desirable by such sale, surrender, and relief ;

And whereas it is expedient to reduce the said capital of the Bank of Bengal by two millions of rupees and to reduce the said capital of the Bank of Madras by six hundred and twenty-five thousand rupees, and to divide the capital so reduced of each of the same Banks into shares of five hundred rupees each ;

And whereas it is expedient that the said New Bank of Bombay, Limited, should be reconstituted and regulated, in manner in this Act provided, under the name of the Bank of Bombay ;

It is hereby enacted as follows :—

#### CHAPTER I.—PRELIMINARY.

Short title                      1. This Act may be called “ The Presidency Banks Act, 1876 ;”

Commencement                      And it shall come into force on the first day of May 1876.

2. On and from that day the Statute specified in the first part of the schedule hereto annexed shall be repealed to the extent mentioned in the third column thereof, and the Acts specified in the second, third, and fourth parts of the same schedule shall be wholly repealed. But all bye-laws and regulations made under any such Act, and then in force, shall, so far as they are consistent with this Act, be deemed to have been made hereunder.

References in Act X of 1866                      The references made in the Indian Companies Act, 1866, to the Bank of Bengal, the Bank of Madras, and the Bank of Bombay, shall be deemed to be made respectively to the Bank of Bengal, the Bank of Madras and the Bank of Bombay as constituted by this Act.

Interpretation-clause                      3. In this Act, unless there be something repugnant in the subject or context—

“ The Bank ” means the Bank of Bengal, the Bank of Madras, or the Bank of Bombay (as the case may be), as constituted and regulated by this Act :

“ Capital ” means the capital for the time being of the Bank :

“ Shares ” means the shares for the time being of the capital, and includes also half shares :

“ Capital stock ” means that part of the capital into which wholly paid-up shares have been converted or consolidated, and in the case of the Bank of Bengal and the Bank of Madras includes the present consolidated stock of such Banks respectively :

“ Registered ” means registered in the books of the Bank :

“ Shareholders ” means the duly registered holders from time to time of the shares of the Bank :

“ Proprietors ” means the duly registered holders from time to time of the capital stock of the Bank :

“Directors” means the Directors assembled for the purpose of performing any of their functions under this Act :

“Board” means a meeting of the Directors duly called and constituted, or, as the case may be, the Directors assembled at a Board :

“Auditors” and “Secretary” mean those respective officers from time to time of the Bank, and “Secretary” includes a Secretary and Treasurer and a Deputy Secretary :

“General meeting” means the meeting of proprietors or shareholders or both, held annually under section forty-nine ; it includes any adjourned holding thereof :

“Special meeting” means a meeting of proprietors or shareholders or both, held for the transaction of some particular business specified in the notice convening the meeting ; it includes any adjourned holding thereof :

“Special resolution” means a resolution passed at a special meeting :

“Office” means the office or principal office for the time being of the Bank :

“Goods” includes also bullion, wares, and merchandize .

“Presidency of Fort St. George” means the territories now under the government of the Governor of Fort St. George in Council :

“Presidency of Bombay” means the territories now under the government of the Governor of Bombay in Council : and

“Presidency of Fort William” means all the territories in British India other than the Presidency of Fort St. George and the Presidency of Bombay.

## CHAPTER II.—CONSTITUTION.

4. The several persons who, when this Act comes into force, are respectively the proprietors and shareholders of the said Bank of Bengal, Bank of Madras, and New Bank of Bombay, Limited (hereinafter called the present Banks), or who shall, at any time thereafter, by virtue of this or any other Act regulating the Bank, become proprietors or shareholders, shall continue and constitute and be bodies corporate with perpetual succession, under the name,

in the case of the proprietors and shareholders of the said Bank of Bengal—of “The Bank of Bengal,”

in the case of the proprietors and shareholders of the said Bank of Madras—of “The Bank of Madras,”

and in the case of the shareholders and proprietors of the said New Bank of Bombay, Limited—of “The Bank of Bombay,”

and shall respectively possess and enjoy all the rights, powers, and immunities incident by law to a corporation aggregate ; subject, nevertheless, to the provisions of this or any other Act for the time being in force regulating the Bank,

and in particular, the proprietors of the Bank shall not be liable for its debts and engagements, and the shareholders of the Bank shall be so liable only to the extent of their shares not fully paid up.

The several persons who are then proprietors and shareholders of each of the present Banks of Bengal and Madras, or the proprietors and shareholders of present Banks to be proprietors and shareholders of new Banks respectively, shall be entitled to be registered as proprietors and holders of a like quantity of stock and a proportionate number of shares, as is or are then registered in their names respectively, or in the names of the persons whom they represent respectively in the books of each of the said present Banks of Bengal and Madras, two shares in the Bank of Bengal as constituted by this Act being deemed equivalent to one share in the present Bank of Bengal, and two shares in the Bank of Madras as constituted by this Act being deemed equivalent to one share in the present Bank of Madras,

and the several persons who are then shareholders of the said New Bank of Bombay, Limited, or the executors or administrators of such shareholders respectively, shall be registered as holders of a like number of shares of the Bank of Bombay as constituted by this Act as are then registered in their names respectively, or in the names of the persons whom they represent respectively in the books of the said New Bank of Bombay, Limited; and all such shares upon which the sum of five hundred rupees has then been paid, shall be deemed to have been fully paid up.

5. All the property, moveable and immoveable, and all the securities, claims and demands, and the benefits of all agreements, of or to which the present Banks are or shall be respectively possessed or entitled, or which shall, or but for this Act might be, on the said first day of May 1876, or might at any time thereafter have been, due to, or claimed by, the said Banks respectively, shall, by virtue of this Act become vested in and devolve upon, and may be claimed, made and recovered by,

in the case of the said Bank of Bengal,—the Bank of Bengal as constituted by this Act,

in the case of the said Bank of Madras,—the Bank of Madras as constituted by this Act,

and in the case of the said New Bank of Bombay, Limited,—the Bank of Bombay as constituted by this Act;

and the Bank shall, from and after the said first day of May 1876, be liable and subject to all debts, claims and demands which shall then be due or claimable from, or which, but for this Act, might be then, or might at any time thereafter, have been due or claimable from or made against the said Bank of Bengal, Bank of Madras, or New Bank of Bombay, Limited, as the case may be,

and no suit or legal proceeding then pending by or against the said Bank of Bengal, Bank of Madras, or New Bank of Bombay, Limited, shall cease, or abate, or become defective, in consequence of this Act, but may be continued and prosecuted by or against the Bank.

6. The transfer of the assets and liabilities of the said New Bank of Bombay, Limited, to the Bank of Bombay, by virtue of this Act, shall operate as a winding-up and liquidation of the said New Bank of Bombay, Limited.



No shareholder or creditor of the said New Bank of Bombay, Limited, shall take any proceedings for winding up the same under the Indian Companies Act, 1866, or any Act for the time being in force relating to the winding-up of Companies ;

and no person shall make, assert, or take any claims, demands, or proceedings against the same Bank, or the directors or officers thereof, except so far as may be necessary for enforcing the provisions of this or any other Act for the time being in force regulating the Bank of Bombay.

Banks to sue and be sued  
in corporate name,

7. The Bank shall sue and be sued by its said corporate name ;

and use corporate seals ;

and shall use such corporate seal as the directors from time to time appoint ;

and may as such body corporate acquire and hold, either absolutely

and may hold and transfer property.

or conditionally, for a term or in perpetuity, any property whatsoever, moveable or immoveable, and transfer, assign, and convey the same.

8. The seal of the Bank shall not be affixed to any instrument except

Seal how used

in the presence of at least two Directors and of the Secretary and Treasurer, who shall sign their names to the instrument in token of their presence, and such signing shall be independent of the signing of any person who may sign the instrument as a witness.

Unless so signed as aforesaid, such instrument shall be of no validity.

Contracts how made

9. Contracts may be made on behalf of the Bank as follows :—

(a) any contract, which, if made between private persons, would be by law required to be in writing, and, if made according to English law, to be under seal, may be made on behalf of the Bank in writing under its corporate seal, and such contract may be in the same manner varied or discharged :

(b) any contract, which, if made between private persons, would be by law required to be in writing signed by the parties to be charged therewith, may be made on behalf of the Bank by writing signed by any person acting under the express or implied authority of the Bank, and such contract may in the same manner be varied and discharged :

(c) any contract, which, if made between private persons, would by law be valid, although made by parol only and not reduced into writing, may be made by parol on behalf of the Bank by any person acting under the express or implied authority of the Bank, and such contract may in the same manner be varied and discharged :

and all contracts made according to the provisions herein contained shall be effectual in law and shall be binding upon the Bank and other parties thereto and their legal representatives.

#### CHAPTER III.—CAPITAL.

10. The capital of the Bank of Bengal shall consist of twenty millions of rupees in shares of five hundred rupees each, divisible into half shares, with power to increase the same, in manner hereinafter provided, to thirty millions of rupees.

Capital of Bank of Bengal.

The capital of the Bank of Madras shall consist of five millions of rupees, in shares of five hundred rupees each, divisible into half shares, with power to increase the same, in manner hereinafter provided, to twelve millions of rupees.

The capital of the Bank of Bombay shall consist of ten millions of rupees, in shares of five hundred rupees each, divisible into half shares, with power to increase the same, in manner hereinafter provided, to twenty millions of rupees.

11. The capital of the said New Bank of Bombay, Limited, already created, shall, on the first day of May 1876, constitute the capital of the Bank of Bombay, subject to be increased as aforesaid.

12. Any shareholder may from time to time surrender his wholly paid-up shares, or any of them, to the directors, and demand and receive from the Bank, in lieu thereof, capital stock to the amount represented by the shares so surrendered ;

and any proprietor may from time to time surrender his stock, or any portion thereof, to the directors, and demand and receive from the Bank, in lieu thereof, shares to the like amount, or as near thereto as practicable.

13. The proprietors and shareholders of the Bank may from time to time by special resolution, and with the previous sanction of the Governor-General in Council, increase or reduce the capital of the Bank :

Provided that no such special resolution shall be deemed to have been passed, unless at least one-third in number of the proprietors or shareholders, holding at least one-half of the paid-up capital of the Bank for the time being, be present in person or by proxy, and a majority poll by open voting in favour of the said resolution.

14. When any such special resolution to increase the capital has been passed, the directors may, subject to the provisions of this or any other Act for the time being in force regulating such Bank, and to the special direction (if any) given in reference thereto by the meeting at which such resolution has been passed,

(a) make such orders as they think fit for the opening of subscriptions towards such increase of capital by the proprietors and shareholders ;

(b) allow to the proprietors and shareholders such period to fill up the subscription as to the directors seems fit ;

(c) prescribe the manner in which the proprietors and shareholders shall subscribe and pay into the Bank the proportions of new capital which they may respectively desire to subscribe ; and

(d) make such orders as the directors think fit for the disposal and allotment of the amount of new capital that may not be subscribed for and paid up in manner aforesaid :

Provided that the capital shall not exceed, in the case of the Bank of Bengal, thirty millions of rupees, in the case of the Bank of Madras, twelve millions of rupees, and in the case of the Bank of Bombay, twenty millions of rupees.

15. When any such special resolution to reduce the capital has been passed, the directors may (subject as aforesaid) prescribe the manner in which the reduction shall be carried into effect.

Procedure on resolution to reduce capital

16. Any new capital created under the provisions of section thirteen shall be subject to the provisions of this or any other Act regulating the Bank in force for the time being.

New capital to be subject to provisions of Act

#### CHAPTER IV.—FORFEITURE OF STOCK AND SHARES.

17. If any proprietor or shareholder is indebted to the Bank, the Bank may withhold payment of dividends on the stock or shares of such proprietor or shareholder not being registered as held in trust, or as executor or administrator, and apply them in payment of the debt ;

Powers in regard to proprietors or shareholders indebted to Bank.

and the Bank may refuse to register the transfer of any such stock or shares until payment of such debt ;

and after demand and default of payment, and notice in that behalf given to such proprietor or shareholder, or his constituted agent, or by public advertisement in the local official Gazette, if the debt remain unpaid for the space of three months after such notice, the Bank may advertise in the local official Gazette such stock or shares for sale on a day not less than fifteen days from the publication of such advertisement ;

and may, on such day, sell by public auction, and subject to such conditions, if any, as the Bank thinks fit, such stock or shares, or so much or so many thereof as may be necessary, and apply the proceeds thereof in or towards payment of the said debt, with interest, from the day appointed for the payment of such debt to the time of actual payment, at such rate as may have been agreed upon, or, in the absence of such agreement, at the highest rate current for advances by way of local discounts by the Bank ;

and shall pay over the surplus, if any, to such proprietor or shareholder or to his lawful representative.

#### CHAPTER V.—CERTIFICATES, TRANSFER, AND TRANSMISSION OF SHARES AND STOCK.

18. Every shareholder shall be entitled to a certificate, under the corporate seal of the Bank, and signed by two Directors and the Secretary and Treasurer, specifying the shares held by him, and in the case of shares which are not wholly paid up, the amount paid thereon ;

Certificates for shares

and any holder of more than one-half share may, at his option, demand a certificate for each such half share, or one or more certificates for all or any of such half shares, and such certificate or certificates shall be delivered to him accordingly : Provided that the number of such certificates shall in no case exceed the number of half shares in respect of which they are so delivered.

Every proprietor of capital stock shall be entitled to a receipt signed by two directors and the Secretary and Treasurer, and specifying the amount of stock held by him, and any such proprietor may, at his option, demand one receipt for the whole of the stock, or separate receipts for any portions of the stock, so held by him, and such receipt or receipts shall be delivered to him accordingly: Provided that no receipt shall be delivered for a portion of stock less than two hundred and fifty rupees.

Receipts for stock.

For every certificate and receipt delivered under this section, there shall be paid such fee as may for the time being be prescribed under section sixty-three, clause (k): Provided that no fee shall be payable for certificates or receipts delivered to the persons referred to in section four for shares in or stock of the Bank.

Fees for certificates and receipts

Every such certificate and receipt shall be *primâ facie* evidence of the title of the shareholder or proprietor to the shares or stock therein specified.

Certificates and receipts to be evidence.

19. The stock and shares of every proprietor and shareholder shall be moveable property, capable of being transferred in manner provided by the regulations contained herein, or in any other Act regulating the Bank for the time being in force, and shall not be of the nature of immoveable property; and each share shall be distinguished by its appropriate number.

Stock and shares to be moveable property

20. Every transfer of stock or shares may be by endorsement on the certificate or in such other form as the Board from time to time may approve, and shall be presented to the Bank accompanied by such evidence as the Board may require to prove the title of the transferor.

Form of transfer to be approved by Board

Every such transfer shall be verified in such manner as the Board require, and the Board may refuse to register any such transfer until the same be so verified, and, in the case of shares not fully paid up, unless the transferee is approved by the Board.

Board may require evidence of transmission

The transferor shall be deemed to remain the proprietor or holder of the stock or shares transferred until the name of the transferee is registered in respect thereof.

Transferor to remain proprietor till transfer registered

21. The directors may from time to time close the register and transfer-books of the Bank for any period or periods not exceeding in the whole thirty days in any twelve consecutive months.

Power to close transfer-books

Corporation to consist of registered proprietors or shareholders only

22. The proprietors and shareholders for the time being, and no other persons, shall be members respectively of the bodies corporate hereby constituted;

and, except for the proposes of excluding the provisions of section seventeen, the Bank shall not be bound or affected by notice of any trust to which any stock or share may be subject in the hands of the proprietor or holder thereof;

Notice of trusts.

and when any stock or share is vested in more than one proprietor or holder, such proprietors or shareholders shall, as between themselves and the Bank, be considered as joint owners with benefit of survivorship :

Shares vested in several holders.

Provided that, as regards voting at meetings, service of notices, and receipt of dividend, the person whose name stands first in the register as one of the proprietors or holders of such stock or share shall be deemed the sole proprietor or holder thereof.

23. When by the death of any proprietor or shareholder his stock or shares shall devolve on his legal representative, the Bank shall not be bound to recognize any legal representative of such proprietor or shareholder other than a person who has taken out from a Court having jurisdiction in this behalf probate of the will or letters of administration to the estate of the deceased.

Transmission of stock or shares of deceased proprietors or shareholders

Any person becoming entitled to stock or shares in consequence of the insolvency or bankruptcy of any proprietor or shareholder, or in consequence of the marriage of any female proprietor or shareholder, may be registered as a proprietor or shareholder upon such evidence being produced as the directors may from time to time require.

Transmission on insolvency or marriage

#### CHAPTER VI.—DIRECTORS.

24. The business of the Bank shall be managed by the Board, which shall in the first instance consist of six directors, and may subsequently consist of such number, not less than six, and not more than nine, as may be fixed by a special resolution.

Board.

Such directors shall be selected by vote of a general or special meeting.

Quorum

Three of the directors shall form a quorum for the transaction of business.

25. The persons who, on the first day of May 1876, are respectively directors of the Bank of Bengal, the Bank of Madras and the New Bank of Bombay, Limited, shall be respectively directors of the Bank of Bengal, the Bank of Madras and the Bank of Bombay, as constituted by this Act, subject to removal as hereinafter provided, and to the other provisions herein contained.

Present directors to be continued

Two directors to go out by rotation annually

26. The two directors who have been longest in office shall go out of office at the general meeting.

Any director so retiring may be re-elected at such meeting ; and if any question arise as to which of the directors who have been the same time in office shall retire, such question shall be decided by the directors by a ballot.

27. *Clause 1.*—No person shall be qualified to serve as a director of a Bank who is not a proprietor or holder in his own right of unencumbered stock or shares of such Bank, to the nominal amount of ten thousand rupees at the least.

Qualification of directors

Disqualification of directors.

*Clause 2.*—No person shall be qualified to serve as a director—

If he holds the office of director, provisional director, promoter, agent, or manager of any other joint-stock Bank established, or having a branch or agency, in British India, or advertised as about to be established, or to have a branch or agency, in British India ; or

If he is a salaried officer of Government not specially authorised by the Governor-General in Council to serve as a director ;

And the office of director shall be vacated—

If the person holding it resign his office or dies ;

If he accepts or holds any other office of profit under the Bank ;

If he becomes insolvent or bankrupt, or compounds with his creditors ;

If he is declared lunatic, or becomes of unsound mind ;

If he is absent from the Board for more than three consecutive months ;

If he ceases to hold in his own right the amount or number of unencumbered stock or shares required to qualify him for the office.

*Clause 3.*—No two persons who are partners of the same mercantile firm, or one of whom is the general agent of, or holds a power of procuration from, the other, or from a mercantile firm of which the other is a partner, shall be eligible or qualified to serve as directors at the same time.

Co-partners of same firm not to serve as directors at same time

*Clause 4.*—The proprietors or shareholders may, by a special resolution passed by the votes of proprietors or shareholders holding in the aggregate not less than one-half of the capital, remove any director before the expiration of his period of office, and appoint, in his stead, a qualified person, who shall in all respects stand in his place.

Directors to choose president and vice-president

**28.** At the first meeting of the directors in every year, they shall choose a president and vice-president from among themselves, and whenever the office of president or vice-president becomes vacant, they shall, at their next meeting, choose a successor for the remainder of the current year :

Provided that no person shall be chosen to be president or vice-president twice in succession.

The president, or in his absence the vice-president, shall be chairman at all meetings whether of directors or of proprietors or shareholders, and shall have an additional or casting vote in all cases of an equal division of votes : Provided that if both the president and vice-president be absent at any meeting, the directors present shall elect a chairman for such meeting from among themselves, and such chairman shall, in case of an equal division of votes, have an additional or casting vote.

Chairman  
Casting vote

NOTE.—As amended by Act V of 1879

**29.** The Board shall have power at any time, and from time to time, to supply any vacancies in their number arising from the death, resignation, or disqualification, under section twenty-seven, of any director.

*Vacancies among directors how filled up*

Any director so appointed shall, for the purposes of section twenty-six be considered to have held office from the date on which the director in whose place he is appointed was elected, or (where such director was appointed under this section) from the date on which his mediate or immediate predecessor was elected.

**30.** All acts done by any person acting in good faith as a director shall be as valid as if he was a director, notwithstanding it be afterwards discovered that there was some defect in his appointment or qualification.

*Acts of directors valid notwithstanding subsequent discovery of disqualification.*

**31.** Every director shall be indemnified by the Bank against all losses and expenses incurred by him in or about the discharge of his duties, except such as happen from his own wilful act or default.

*Indemnity of directors*

No director shall be responsible for any other director or for any officer, clerk or servant of the Bank, or for any loss or expense happening to the Bank by the insufficiency or deficiency of value of, or title to, any property or security acquired or taken on behalf of the Bank, or by the insolvency, bankruptcy or wrongful act of any customer or debtor of the Bank, or by anything done in the execution of the duties of his office or in relation thereto, or otherwise than for his own wilful act or default.

#### CHAPTER VII.—OFFICERS OF THE BANK.

*Appointment, salaries, suspension, and removal of officers.*

**32.** The directors shall have power—

to appoint such officers, clerks and servants as may be necessary to conduct the business of the Bank,

to grant salaries, pensions, and other emoluments to such officers, clerks and servants, and

to suspend or remove any officer, clerk, or servant of the Bank.

**33.** The Secretary and such other officers of the Bank as the directors may by writing notify in the local official Gazette (and, in the case of the Bank of Bengal, also in the *Gazette of India*) are hereby severally empowered for and on behalf of the Bank to endorse and transfer promissory notes, stock-receipts, stock, debentures, shares, securities and documents of title to goods, standing in the name of, or held by, the Bank,

and to draw, accept and endorse bills of exchange, bank post-bills, and letters of credit, in the current and authorized business of the Bank,

and to sign all other accounts, receipts and documents connected with such business.

*Officers forbidden to engage in other commercial business.*

**34.** No Secretary, Inspector, Manager, or Accountant in the service of the Bank,

and, without the previous sanction of the Board, no Khazanchi, Cashier or Shroff in the service of the Bank at the principal office,

and, without the previous sanction of the Board, no Agent, Khazan̄chi, Cashier or Shroff at any branch or agency of the Bank,

shall engage in any other banking or commercial business, either on his own account or as agent for any other person or persons, or shall act as broker or agent for the sale or purchase of Government or other securities.

NOTE.—As amended by Act V of 1879

35. Every person appointed to hold, or act in, any one or more of the said offices, and every other officer from whom the Security from officers directors may from time to time think fit to require it, shall give security to the directors, for the faithful discharge of his duty to the satisfaction of the directors, in such amount and in such manner as they think proper.

The security to be given as aforesaid by the person holding or acting in the office of Secretary shall not be in a less amount than fifty thousand rupees.

#### CHAPTER VIII.—BUSINESS.

Business which Banks may transact 36. The Bank is authorized to carry on and transact the several kinds of business hereinafter specified (that is to say) :

(a) the advancing and lending money, and opening cash credits, upon the security of—

(1) promissory notes, debentures, stock, and other securities of the Government of India, or of the United Kingdom of Great Britain and Ireland ;

(2) bonds, debentures, and annuities charged by the Imperial Parliament on the revenues of India ;

(3) stock or debentures of, or shares in, Railway or other Companies, the interest whereon shall have been guaranteed by the Secretary of State for India in Council ;

(4) debentures or other securities for money issued by, or on behalf of, any municipal body, or any body of Commissioners for making improvements in any port, or of trustees of any port, under the authority of any Act of a legislature established in British India ;

(5) bullion or other goods which, or the documents of title to which, are deposited with, or assigned to, the Bank as security for such advances, loans or credits ; and

(6) accepted bills of exchange and promissory notes indorsed by the payees :

Provided that such advances and loans may be made, if the directors think fit, to the Secretary of State for India in Council, without any specific security ;

(b) the selling and realization of the proceeds of sale of any such promissory notes, debentures, stock-receipts, bonds, annuities, stock, shares, securities, bullion or goods which, or the documents of title to which, have been deposited with, or assigned to the Bank as security for such advances, loans, or credits, or which are held by the Bank, or over which the Bank is entitled to any lien or charge in respect of any such loan or advance or credit or any debt or claim of the Bank, and which have not



been redeemed in due time in accordance with the terms and conditions (if any) of such deposit or assignment ;

(c) the drawing, discounting, buying and selling of bills of exchange and other negotiable securities payable in India, or in Ceylon ;

(d) the investing of the funds of the Bank upon any of the securities specified in paragraph (a) of this section, clauses (1), (2), (3), and (4), and converting the same into money when required,

and from time to time altering, converting, and transposing such investments for or into others of the investments above specified ;

(e) the making, issuing and circulating of bank-post-bills and letters of credit made payable in India, or in Ceylon, to order, or otherwise than to the bearer on demand ;

(f) the buying and selling of good silver, whether coined or uncoined ;

(g) the receiving of deposits and keeping cash-accounts on such terms as may be agreed on ;

(h) the acceptance of the charge and management of plate, jewels, title-deeds, or other valuable goods on such terms as may be agreed upon ;

(i) the selling and realizing of all property, whether moveable or immoveable, which may in any way come into the possession of the Bank in satisfaction or part satisfaction of any of its claims ;

(j) the transacting of pecuniary agency business on commission ;

(k) the acting as agent on commission in the transaction of the following kinds of business (namely) :—

(1) the buying, selling, transferring and taking charge of any securities or any shares in any public Company ;

(2) the receiving of the proceeds, whether principal, interest or dividends, of any securities or shares ;

(3) the remittance of such proceeds at the risk of the principal by public or private bills of exchange, payable either in India or elsewhere ;

(l) the drawing of bills of exchange, and the granting of letters of credit, payable out of India, for the use of principals for the purpose of the remittances mentioned in the last preceding clause of this section ;

(m) the buying, for the purpose of meeting such bills or letters of credit, of bills of exchange, payable out of India, at any usance not exceeding six months ;

(mm) the borrowing of money in India for the purposes of the Bank's business, and the giving of security for money so borrowed by pledging assets or otherwise ;

(n) and, generally, the doing of all such matters and things as may be incidental or subsidiary to the transacting of the various kinds of business hereinbefore specified ;

(o) It shall also be lawful for the Bank under any arrangement or agreement with the Secretary of State for India in Council—

(1) to act as banker for, and to pay, receive, collect, and remit money bullion, and securities on behalf of the Government ;

(2) to undertake and transact any other business which the Government may from time to time entrust to the Bank ;

And the directors shall have power from time to time to arrange and settle with the Governor-General in Council the terms of remuneration on which such business shall be undertaken by the Bank, and also as to the examination and audit from time to time of the accounts and affairs of the Bank by or on behalf of the Governor-General in Council.

NOTE.—As amended by Act V of 1879.

**37.** The directors shall not transact any kind of banking business other than those above specified, and in particular they shall not make any loan or advance—

- (a) for a longer period than three months ; or
- (b) upon the security of stock or shares of the Bank of which they are directors ; or
- (c) upon mortgage, or in any other manner upon the security, of any immoveable property, or the documents of title relating thereto.
- (d) Nor shall they (except upon the security mentioned in section thirty-six, paragraph a, Nos. 1 to 5 inclusive)

discount bills for any individual or partnership-firm for an amount exceeding in the whole at any one time such sum as may be prescribed by the bye-laws for the time being in force, or

lend or advance in any way to any individual or partnership-firm an amount exceeding in the whole at any one time such sum as may be so prescribed.

(e) Nor shall they discount or buy, or advance and lend, or open cash-credits on the security of any negotiable instrument of any individual or partnership firm, payable in the town or at the place where it is presented for discount, which does not carry on it the several responsibilities of at least two persons or firms unconnected with each other in general partnership.

(f) Nor shall they discount or buy, or advance and lend, or open cash-credits on the security of any negotiable security having at the date of the proposed transaction a longer period to run than three months, or if drawn after sight, drawn for a longer period than three months : Provided that, in the case of the Bank of Madras, the directors may discount negotiable securities payable in Ceylon having at the date of the transaction a period to run not exceeding four months.

Nothing contained in this Act shall be deemed to prevent the directors from allowing any person who keeps an account with the Bank from over-drawing such account, without security, to the extent of sums not exceeding at any one time two thousand rupees in the whole.

NOTE.—As amended by Act V of 1879.

**38.** Until the expiration of at least fourteen days after notice has been given by notification of the Governor-General in Council published, in the case of the Bank of Bengal, in the *Gazette of India* and the *Calcutta Gazette*, and in the cases of the Bank of Madras and the Bank of Bombay, in the local official Gazette, that the Bank will no longer act as banker for, or pay, receive, collect, or remit money, bullion and securities on behalf of the Government,

all sums payable by or to the Secretary of State for India in Council, or by or to the Governor-General in Council, or the Government of Bengal, or the Governor of Fort St. George in Council, or the Governor of Bombay in Council, on behalf of the Secretary of State for India in Council, at the General Treasury of Fort William in Bengal, or at the General Treasury at Madras, or at the General Treasury at Bombay,

shall be payable—

in the case of the Secretary of State for India in Council, or the Governor-General in Council—at the office of the Bank of Bengal, the Bank of Madras, or the Bank of Bombay, as the case may be,

in the case of the Government of Bengal—at the office of the Bank of Bengal;

in the case of the Governor of Fort St. George in Council—at the office of the Bank of Madras; and

in the case of the Governor of Bombay in Council—at the office of the Bank of Bombay.

**39.** Whenever presentment of any promissory note, bond or other security for payment or any other purpose at any of the said General Treasuries would heretofore have been necessary or sufficient, presentment for such purpose shall be necessary or sufficient (as the case may be) until the expiration of fourteen days after the giving of the notice mentioned in section thirty-eight—

in the case of the General Treasury of Fort William—at the office of the Bank of Bengal;

in the case of the General Treasury at Madras—at the office of the Bank of Madras; and

in the case of the General Treasury at Bombay—at the office of the Bank of Bombay.

**40.** The office of the Bank of Bengal shall be at Calcutta, that of the Bank of Madras shall be at Madras, and that of the Bank of Bombay shall be in the Island of Bombay, and the business of the Bank shall be carried on at its office, and at such other place or places in India as the Board may deem advisable under the provisions of section forty-two.

**41.** For the purpose of providing offices and places in and at which to carry on and manage the business of the Bank, and proper residences for its agents, the directors may—

(a) acquire any interest in immoveable property, and

(b) sell, buy in, re-sell, exchange, let, furnish, repair, insure against fire, and otherwise deal with all or any part of the same as they may consider most conducive to the interests of the Bank.

**42.** It shall be lawful for the directors to maintain as branches or agencies of the Bank, any branches or agencies of the present Banks which may be in existence on the first day of May 1876, and, from time to time, to establish branches or agencies at such places within the Presidency in which the Bank is situate as they deem advantageous to the interest of the Bank,

and, with the previous consent of the Governor-General in Council, and subject to such restrictions as to the business to be transacted as he thinks fit in each case to impose (such consent and restrictions being notified in the *Gazette of India*), to establish branches or agencies at such places outside the Presidency in which the Bank is situate, as the directors deem advantageous for the interests of the Bank :

Provided that no agency of the Bank now or hereafter established in Bombay, Calcutta, or Madras shall advance, or lend money, or open cash credits on securities, or receive deposits and keep cash-accounts, or discount bills of exchange drawn and payable in the Presidency in which it is so established,

or shall act as agent on commission, or transact any business except as agent of its principal Bank, or any of its branches or other agencies.

The directors may discontinue any branch or agency maintained or established under this section.

#### CHAPTER IX.—ACCOUNTS AND DIVIDENDS.

43. The directors shall cause the books of the Bank to be balanced on every thirty-first day of December and every thirtieth day of June.

A statement of the balance at every such period, signed by a majority of the directors, shall be forthwith sent to a Secretary to the Government of India, and in the cases of the Bank of Madras and the Bank of Bombay also to a Secretary to the Local Government.

The Governor-General in Council in the case of each of the said Banks, and the Local Government in the case of the Bank of Madras and the Bank of Bombay, shall (so long as any such arrangement with the Government as aforesaid which has already been, or shall hereafter be, entered into, remains in force) at all times be entitled to require of the directors any information touching the affairs of the Bank and the production of any document of the Bank ;

and in the case of each of the said Banks, the Governor-General in Council may require the publication of such statements of its assets and liabilities at such intervals and in such form and manner as the Governor-General in Council thinks fit.

Every requisition under this section shall be signified in writing under the hand of a Secretary to the Government of India or to the Local Government (as the case may be), and the directors shall comply with every such requisition.

44. An account of the profits of the Bank during the previous half-year shall be taken on or immediately after every thirty-first day of December and every thirtieth day of June,

Dividends to be determined half-yearly

and a dividend shall be made as soon thereafter as conveniently may be, and the amount of such dividend shall be determined by the directors, subject to the provisions of section forty-five.

No unpaid dividend shall bear interest as against the Bank.

**45.** The directors, before declaring any dividend, may set aside out of the profits of the Bank such a sum as they think proper as a reserve-fund, and invest the same upon any of the securities specified in section thirty-six, paragraph (a), clauses (1), (2), (3) and (4).

**46.** The directors may, from time to time, apply such portion as they think fit of the reserve-fund to meet contingencies, or for equalizing dividends, or for any other purposes of the Bank, which they from time to time deem expedient.

#### CHAPTER X.—AUDIT.

**47.** Two auditors shall be elected and their remuneration fixed at the annual general meeting.

The auditors may be proprietors or shareholders; but no director or other officer of the company is eligible during his continuance in office.

Any auditor shall be re-eligible on his quitting office.

The persons who shall be auditors on the first day of May 1876, and all auditors elected under this section, shall severally be and continue to act as auditors until the first general meeting after their respective elections:

Provided that if any casual vacancy occurs in the office of any auditor, the directors shall forthwith call a special meeting for the purpose of supplying the same.

**48.** Every auditor shall be supplied with a copy of the half-yearly balance sheet, and it shall be his duty to examine the same, with the accounts and vouchers relating thereto.

Every auditor shall have a list delivered to him of all books kept by the Bank, and shall at all reasonable times have access to the books, accounts, and other documents of the Bank, and may (at the expense of the Bank) employ accountants or other persons to assist him in investigating such accounts, and may, in relation to such accounts, examine the directors or any other officer of the Bank.

The auditors shall make a report to the proprietors and shareholders upon the annual balance-sheet and accounts; and in every such report they shall state whether, in their opinion, the balance sheet is a full and fair balance-sheet containing the particulars required by the bye-laws made under this Act, and properly drawn up so as to exhibit a true and correct view of the state of the Bank's affairs, and in case they have called for any explanation or information from the directors, whether it has been given by the directors and whether it has been satisfactory.

Such report shall be read together with the report of the directors at the annual general meeting.

#### CHAPTER XI.—MEETINGS.

**49.** On the first Monday of the month of August in every year, or as soon after such day as is convenient, a general meeting shall be held, at which the directors shall submit

Annual general meetings.

to the proprietors and shareholders a statement of the affairs of the Bank made up to the preceding thirtieth day of June.

A notice convening such meeting, signed by the Secretary, shall be published in the local official Gazette, and in the case of the Bank of Bengal also in the *Gazette of India*, at least fifteen days before the meeting is held.

**50.** Any ten or more proprietors or shareholders holding stock or shares, or both, to the aggregate amount of fifty thousand rupees, or any three directors, may convene a special meeting upon giving fifteen days' previous notice of such meeting, and of the purpose for which the same is convened, as well to the directors as also by public advertisement in the local official Gazette, and in two of the English daily newspapers and one of the vernacular newspapers:

Provided that three months' previous notice shall be thus given of any special meeting held for the purpose of increasing or reducing the capital of the Bank, and shall also be served on every proprietor and shareholder.

**51.** No business shall be transacted at any meeting, whether general or special, unless a quorum of twenty proprietors or shareholders, or both, in person or by proxy, is present at the commencement of such business.

If within one hour from the time appointed for the meeting a quorum is not present, the meeting, if convened by proprietors or shareholders not being directors, shall be dissolved: in any other case it shall stand adjourned to the same day in the following week at the same time and place, and if at such adjourned meeting a quorum is not present, it shall be adjourned *sine die*.

**52.** At meetings, whether general or special, every election and other matter submitted to the meeting shall be decided by a majority of votes, except as in section thirteen and in section twenty-seven, clause 4, is specially provided;

and no person shall be allowed to vote at any such meeting in respect of any stock or share acquired by transfer, unless such transfer shall have been completed and registered at least three months before the time of such meeting.

And no shareholder shall be entitled to vote at any meeting in respect of any shares held by him alone or jointly, whilst any call due from him alone or jointly remains unpaid.

**53.** A declaration by the chairman of any meeting, except a special meeting held under section thirteen, that a resolution has been carried thereat upon a show of hands, shall be conclusive, and an entry to that effect in the book of proceedings of the Bank shall be sufficient evidence of the fact, without proof of the number or proportion of the votes recorded in favour of, or against, such resolution, unless, immediately on such declaration, a poll be demanded in writing by five proprietors or shareholders present and entitled to vote at such meeting.

**54.** If a poll be demanded, it shall be taken at such time and place and (except at the special meeting last aforesaid) Poll to be taken, if demanded. either by open voting or by ballot, as the chairman directs, and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.

**55.** The proceedings at any meeting, and all resolutions and decisions of such meeting, shall be valid and binding on the Bank, so far as such proceedings, resolutions and decisions are consistent with the provisions of this or any other Act for the time being in force and regulating the Bank. Proceedings and resolutions at meetings to be binding.

**56.** At all such meetings, the proprietors or shareholders shall vote according to the following scale :—  
Scale of votes.

The proprietor of capital stock amounting to Rs 2,000, or the holder of shares of which the total nominal amounts are equal to Rs 2,000, shall be entitled to ...	1	vote
The proprietor of capital stock amounting to Rs 10,000, or the holder of shares of which the total nominal amounts are equal to Rs 10,000, shall be entitled to ...	2	votes
The proprietor of capital stock amounting to Rs 20,000, or the holder of shares of which the total nominal amounts are equal to Rs. 20,000, shall be entitled to ..	3	„
The proprietor of capital stock amounting to Rs 30,000, or the holder of shares of which the total nominal amounts are equal to Rs 30,000, shall be entitled to ..	4	„
The proprietor of capital stock amounting to Rs 40,000, or the holder of shares of which the total nominal amounts are equal to Rs 40,000, shall be entitled to ...	5	„
The proprietor of capital stock amounting to Rs 50,000, or the holder of shares of which the total nominal amounts are equal to Rs 50,000, shall be entitled to ...	6	„
The proprietor of capital stock amounting to Rs 75,000, or the holder of shares of which the total nominal amounts are equal to Rs 75,000, shall be entitled to ...	7	„
The proprietor of capital stock amounting to Rs 1,00,000, or the holder of shares of which the total nominal amounts are equal to Rs 1,00,000, shall be entitled to ..	8	„
The proprietor of capital stock amounting to Rs 1,25,000, or the holder of shares of which the total nominal amounts are equal to Rs 1,25,000, shall be entitled to ...	9	„
The proprietor of capital stock amounting to Rs 1,50,000, or the holder of shares of which the total nominal amounts are equal to Rs 1,50,000 shall be entitled to ...	10	„
The proprietor of capital stock amounting to Rs 1,75,000, or the holder of shares of which the total amounts are equal to Rs 1,75,000, shall be entitled to ..	11	„
The proprietor of capital stock amounting to Rs 2,00,000, or the holder of shares of which the total amounts are equal to Rs 2,00,000, shall be entitled to ...	12	„

Where a person is both a proprietor of stock and a holder of shares, his shares shall, for the purpose of this section, be deemed to be stock.

No proprietor or shareholder shall be entitled to more than twelve votes at any such meeting.

**57.** Any proprietor or shareholder entitled to vote at any meeting under this Act may give a proxy in writing, either general or special, under his hand or the hand of his attorney duly authorized, to any other proprietor or shareholder. Proxies of proprietors or shareholders.

Such proxy shall be produced at the time of voting, and shall entitle the person to whom it is given to vote on such matters as shall be authorized by the tenor of such proxy.

But no person shall be permitted to vote in virtue of such proxy unless it has been left for registration at the office of the Bank at least three clear days before the time for holding the meeting at which it is intended to be used.

Provided that a general proxy which has been registered at such office need not be again left for registration previous to any subsequent meeting.

Proxies existing and in force with reference to any of the present Banks, on the first day of May 1876, shall continue in force and be available at meetings under this Act, anything herein contained notwithstanding.

A general power-of-attorney shall be deemed a proxy within the meaning of this section.

58. If any proprietor or shareholder is a lunatic, or idiot, he may vote by his committee or other legal curator, and if any proprietor or shareholder is a minor, he may vote by his guardian, or any one of his guardians, if more than one.

Voting by lunatic and minor shareholders.

## CHAPTER XII.—NOTICES.

59. Every notice or other document requiring to be served by the Bank upon any proprietor or shareholder may be served either personally, or by leaving it for, or sending it through the post by registered letter addressed to, him at his registered place of abode ;

and every notice sent though the post shall be deemed to have been served at the time at which, in the usual course of post, it would have been delivered.

60. Any proprietor or shareholder who changes his name or place of abode, or being a female marries, and the husband of any such female, respectively, shall not be entitled to recover any dividend or to vote until notice of the change of name or abode or marriage be given to the Bank, in order that the same may be registered.

Notices by shareholders.

Every notice to be given on the part of any proprietor or shareholder shall be left at the office of the Bank, or sent through the post by registered letter addressed to the Secretary of the Bank at its principal office.

61. Every person who by operation of law, transfer, or otherwise, becomes entitled to any stock or shares, shall be bound by any and every notice or other document which, previously to his name and address being entered upon the register of the Bank in respect of such stock or shares, has been given to the person from whom he derives his title thereto.

Shareholder bound by notices to previous holders.

62. When any notice or document is delivered or sent, in accordance with this Act, at or to the registered place of abode of a proprietor or shareholder, then, and notwithstanding he be then deceased, and whether or not the Bank have notice of his decease, such service of the notice or other document shall, for all purposes of this Act, be deemed service thereof on him, or, if dead, on his heirs, executors, administrators, and every of them.

Service of notices good, notwithstanding shareholder's death.

## CHAPTER XIII.—BYE-LAWS.

63. The directors shall, as soon as may be, make, and may from time to time alter, bye-laws regulating the following matters or any of them :—

Power of directors to make bye-laws.



(a) the maximum amount which may be advanced or lent to, or for which bills may be discounted for, any individual or partnership, without the security mentioned in section thirty-six, paragraph (a), Nos. (1) to (5) inclusive,

(b) the circumstances under which alone advances may be made to directors or officers of the Bank, or the relatives of such directors or officers, or to companies, firms, or individuals with which or with whom such directors, officers, or relatives are connected as partners, directors, managers, servants, shareholders, or otherwise,

(c) the particulars to be contained in the half-yearly balance-sheet.

The directors may from time to time make bye-laws regulating the following matters or any of them :

(d) the distribution of business amongst the directors,

(e) their remuneration,

(f) the delegation of any powers of the directors to committees consisting of members of their body,

(g) the procedure at the meetings of the Board or of any committee of the directors,

(h) the books and accounts to be kept at the head and other offices respectively,

(i) the reports and statements to be prepared and made by the Chief Accountant, the heads of departments, and the other officers of the Bank,

(j) the management of the branches and agencies,

(k) the fees payable for certificates of shares or receipts for stock, or for registration of transfers of shares or stock,

(l) the renewal of certificates of shares and receipts for stock, which have been worn-out, or lost,

(m) and, generally, for the conduct of the business of the Bank :

Provided that no bye-law, or alteration or rescission of any bye-law, shall be of any validity, except in so far as the same is consistent with the provisions of this Act, and

Proviso

has been previously approved by the Governor-General in Council, and such approval has been signified in writing under the hand of a Secretary to the Government of India.

NOTE.—As amended by Act V of 1879

#### CHAPTER XIV.—MISCELLANEOUS.

**64.** The directors may institute, conduct, defend, compromise, refer to arbitration, and abandon legal and other proceedings and claims by or against the Bank or the directors or officers of the Bank, and otherwise concerning its affairs.

Power to institute and compromise suits

**65.** In any suit brought against any shareholder to recover any debt due for any call or other monies due from him in his character of shareholder, it shall be sufficient to allege that the defendant is a shareholder of the Bank, and is indebted to the Bank in respect of a call made or other monies due, whereby a right to sue has accrued to the Bank ;

Evidence in legal proceedings against shareholders.

and, on the hearing of any suit brought by the Bank against any shareholder to recover any debt due for any call, it shall be sufficient to prove that the name of the defendant is on the register of shareholders of the Bank as the holder of the shares in respect of which such debt accrued, and that the call was made and that notice of such call was duly given to the defendant in pursuance of this or any Act for the time being in force regulating the Bank ;

and it shall not be necessary to prove the appointment of the directors who made such call, nor that a quorum of directors was present at the Board at which such call was made, nor that the meeting at which it was made was duly convened or constituted.

66. Nothing in the Thirty-third of George the Third, session two, chapter fifty-two, shall be deemed to render it unlawful for any servant of Government, or for any Judge of a High Court, to become a member of any corporation established under this Act.

Modification of 33 Geo III, Sess 2, Cap 52.

67. Notwithstanding anything contained in this Act or in Section 231 of Act No. X of 1866, whenever the proprietors and shareholders have passed a special resolution that the Bank shall be wound up voluntarily under the Indian Companies Act, 1866, the bank shall be wound up accordingly, as if it were a Company under that Act :

Power to wind up Bank under Indian Companies Act.

Provided that no such special resolution shall be deemed to have been passed unless at least one-third of the proprietors and shareholders holding at least one-half of the paid-up capital of the Bank for the time being be present in person or by proxy, and a majority poll by open voting in favour of the said resolution, and such resolution has been confirmed by a majority of such proprietors and share-holders at a subsequent special meeting held at an interval of not less than one month, nor more than two months, from the date of the meeting at which such resolution was first passed.

68. And whereas the Government of India has agreed to sell, and the directors of the present Bank of Bengal have agreed to purchase, at a premium of twenty-two and a half per centum, the said two thousand two hundred shares of one thousand rupees each held by the Government of India in the same Bank ; and it is intended that the directors of the Bank of Bengal as constituted by this Act shall cancel two thousand of such shares, and sell for the benefit of the Bank four hundred shares in the same Bank, corresponding with the remaining two hundred shares so agreed to be sold and purchased ;

Sales to Banks of Bengal and Madras of Government shares therein.

And whereas the Government of India has agreed to sell, and the directors of the present Bank of Madras have agreed to purchase, at a premium of ten per centum, the said five hundred and sixty-two and a half shares, held by the Government of India in the same Bank : and it is intended that the directors of the Bank of Madras as constituted by this Act shall cancel the same shares ;

Purchase and cancellation by directors of 62½ shares in present Banks of Madras.

And whereas the directors of the present Bank of Madras have purchased and cancelled other sixty-two and a half shares in such Bank ;

And whereas the said respective directors of the present Bank of Bengal and Bank of Madras had no power to enter into the said agreements with the Government of India, and the directors of the Bank of Bengal as constituted by this Act have no power to sell the four hundred shares referred to in this section, and the said directors of the present Bank of Madras had no power to purchase and cancel the said other sixty-two and a half shares ;

And whereas the directors of the Bank of Bengal as constituted by this Act have no power to cancel the said two thousand shares, and the said directors of the Bank of Madras as constituted by this Act have no power to cancel the said five hundred and sixty-two and a half shares :

And whereas it is expedient to confirm the said agreements with the Government of India, and to indemnify the said respective directors of the present Bank of Bengal and Bank of Madras for entering into the same, and to confirm the said purchase of the said other sixty-two and a half shares by the directors of the present Bank of Madras, and to indemnify the same directors for making the same, and for cancelling the same shares, and to empower the directors of the Bank of Bengal as constituted by this Act to sell the said four hundred shares, and to empower the respective directors of the Bank of Bengal and Bank of Madras as constituted by this Act to cancel the said shares so intended to be cancelled ; It is hereby further enacted as follows :—

(a).—The said agreements with the Government of India are hereby confirmed, and the said respective directors of the present Bank of Bengal and Bank of Madras are hereby indemnified for entering into the same ; and no suit or other proceeding shall be maintained against any such director in respect of anything *bonâ fide* done in pursuance of either of such agreements.

(b).—The said purchase of the said other sixty-two and a half shares is hereby confirmed, and the said directors of the present Bank of Madras are hereby indemnified for making the same and for cancelling the same shares ; and no suit or other proceeding shall be maintained against any such director in respect of anything *bonâ fide* done in effecting such purchase and cancellation.

(c).—The directors of the Bank of Bengal as constituted by this Act shall have power to sell, and shall, as soon as conveniently may be, sell, the said four hundred shares, either together or in parcels, and either by public auction or private contract, and shall apply the proceeds in or towards paying the price of the shares of the Government of India so agreed to be purchased by the directors of the present Bank as aforesaid, or otherwise for the benefit of the Bank of Bengal as constituted by this Act.

(d).—The directors of the Bank of Bengal as constituted by this Act shall have power to cancel, and shall, as soon as conveniently may be, cancel, the said two thousand shares, and the directors of the Bank of Madras as constituted by this Act shall have power to cancel, and shall, as soon as conveniently may be, cancel, the said five hundred and sixty-two and a half shares.

SCHEDULE.  
(SEE SECTION 2).  
*Part I.—Statute*

Number and year.	Abbreviated title.	Extent of repeal.
47 George III, sess 2, cap 68.	An Act for the better Government of the Settlements of Fort St. George and Bombay, &c	Sections eight, nine and ten.

*Part II—Acts of the Governor-General in Council*

Number and year	Title
IV of 1862 ...	An Act for regulating the Bank of Bengal
V of 1862 ..	An Act to provide for the payment at the Banks of Bengal, Madras and Bombay, of monies payable at the General Treasuries of Calcutta, Madras and Bombay.
VI of 1862 ..	An Act to annex a schedule to Act IV of 1862
XXIX of 1863 ...	An Act to declare the receipts of the Banks of Bengal, Madras and Bombay to be sufficient in lieu of the receipts of the Sub-treasurers of Fort William, Fort St. George and Bombay, respectively.
XIX of 1870 ...	An Act to enable the Directors of the Bank of Bengal to act by a quorum

*Part III—Acts of the Governor of Fort St. George in Council*

Number and year	Title
VI of 1866 ...	An Act for repealing Madras Act V of 1862, and for regulating the Bank of Madras
I of 1871 ...	An Act to amend Madras Act VI of 1866, to give validity to certain acts done by the Directors of the Bank of Madras, and to enable outgoing Directors to be re-elected

*Part IV—Acts of the Governor of Bombay in Council*

Number and year.	Title
X of 1863 ...	An Act for the Re incorporation and Re-constitution of the Bank of Bombay
XV of 1866 ...	An Act to amend Act No X of 1863 (Bombay)
I of 1867 ...	An Act to reduce the amount of the capital of the Bank of Bombay and of the shares thereon, and to amend Act X of 1863 and Act XV of 1863 (Bombay).

**ACT No. XVI of 1876.**

(*Passed on the 5th October 1876*).

An Act to amend the Stage Carriages Act.

Whereas Act No. XVI of 1861 (*for licensing and regulating Stage Carriages*) does not apply to carriages drawn by camels or oxen, and it is expedient to render it

Preamble.

applicable to such carriages ; It is hereby enacted as follows :—

Amendment of Act XVI of 1861, S. 21.

1. For the third sentence of Section 21 of the said Act, the following shall be substituted (that is to say) :

“All expressions and provisions which in this Act are applied to horses shall also apply to all other animals employed in drawing any carriage ordinarily used for the purpose of conveying passengers for hire to or from any place in British India.”

2. The said Act, as amended by this Act, applies to the whole of British India, but not so as to supersede or contravene the provisions of any local law dealing with the same subject.

Local extent of Act XVI of 1861

### ACT No. XIX of 1876.

(Passed on the 16th December 1876).

An Act for the better control of public dramatic performances.

WHEREAS it is expedient to empower the Government to prohibit public dramatic performances, which are scandalous, defamatory, seditious, or obscene; It is hereby enacted as follows:—

Preamble

Short title

1. This Act may be called “The Dramatic Performances Act, 1876:”

Local extent

It extends to the whole of British India;

Commencement

And it shall come into force at once.

2. In this Act “Magistrate” means, in the Presidency Towns, a Magistrate of Police, and elsewhere the Magistrate of the District.

“Magistrate” defined

3. Whenever the Local Government is of opinion that any play, pantomime, or other drama performed or about to be performed in a public place is—

Power to prohibit certain dramatic performances

(a) of a scandalous or defamatory nature, or  
(b) likely to excite feelings of disaffection to the Government established by law in British India, or

(c) likely to deprave and corrupt persons present at the performance, the Local Government, or outside the Presidency Towns and Rangoon, the Local Government or such Magistrate as it may empower in this behalf, may by order prohibit the performance.

*Explanation.*—Any building or enclosure to which the public are admitted to witness a performance on payment of money shall be deemed a “public place” within the meaning of this section.

4. A copy of any such order may be served on any person about to take part in the performance so prohibited, or on the owner or occupier of any house, room, or place in which such performance is intended to take place; and any person on whom such copy is served, and who does, or willingly permits, any act in disobedience to such order, shall be punished on conviction before a Magistrate with imprisonment for a term which may extend to three months, or with fine, or with both.

Power to serve order of prohibition  
Penalty for disobeying order

5. Any such order may be notified by proclamation, and a written or printed notice thereof may be stuck up at any place or places adapted for giving information of the order to the persons intending to take part in or to witness the performance so prohibited.

Penalty for disobeying prohibition.

6. Whoever, after the notification of any such order—

(a) takes part in the performance prohibited thereby, or in any performance substantially the same as the performance so prohibited, or

(b) in any manner assists in conducting any such performance, or

(c) is in wilful disobedience to such order present as a spectator, during the whole or any part of any such performance, or

(d) being the owner or occupier, or having the use of, any house, room, or place, opens, keeps, or uses the same for any such performance, or permits the same to be opened, kept, or used for any such performance,

shall be punishable on conviction before a Magistrate with imprisonment for a term which may extend to three months, or with fine, or with both.

7. For the purpose of ascertaining the character of any intended

Power to call for information. public dramatic performance, the Local Government or such officer as it may specially empower in this behalf may apply to the author, proprietor, or printer of the drama about to be performed, or to the owner or occupier of the place in which it is intended to be performed, for such information as the Local Government or such officer thinks necessary.

Every person so applied to shall be bound to furnish the same to the best of his ability, and whoever contravenes this section shall be deemed to have committed an offence under Section 176 of the Indian Penal Code.

8. If any Magistrate has reason to believe that any house, room, or place

Power to grant warrant to Police to enter and arrest and seize. is used, or is about to be used, for any performance prohibited under this Act, he may, by his warrant, authorize any officer of police to enter with such assistance as may be requisite, by night or by day, and by force if necessary, any such house, room, or place, and to take into custody all persons whom he finds therein, and to seize all scenery, dresses, and other articles found there in and reasonably suspected to have been used, or to be intended to be used, for the purpose of such performance.

Saving of prosecutions under Penal Code, Sections 124A and 294. 9. No conviction under this Act shall bar a prosecution under Section 124A or Section 294 of the Indian Penal Code.

10. Whenever it appears to the Local Government that the provisions

Power to prohibit dramatic performances in any local area, except under license of this section are required in any local area, it may, with the sanction of the Governor-General in Council, declare, by notification in the local official Gazette, that such provisions are applied to such area from a day to be fixed in the notification.

On and after that day, the Local Government may order that no dramatic performance shall take place in any place of public entertainment within such area, except under a license to be granted by such Local Government, or such officer as it may specially empower in this behalf.

The Local Government may also order that no dramatic performance shall take place in any place of public entertainment within such area, unless a copy of the piece, if and so far as it is written, or some sufficient account of its purport, if and so far as it is in pantomime, has been furnished, not less than three days before the performance, to the Local Government, or to such officer as it may appoint in this behalf.

A copy of any order under this section may be served on any keeper of a place of public entertainment, and if thereafter he does, or willingly permits, any act in disobedience to such order, he shall be punishable on conviction

before a Magistrate with imprisonment for a term which may extend to three months, or with fine, or with both.

11. The powers conferred by this Act on the Local Government may be exercised by the Governor-General in Council.  
Powers exercisable by Governor-General.

Exclusion of performances at religious festivals

12. Nothing in this Act applies to any *jatras* or performances of a like kind at religious festivals.

## ACT No. I of 1877.

(Passed on the 7th February 1877).

An Act to define and amend the Law relating to certain kinds of Specific Relief.

WHEREAS it is expedient to define and amend the law relating to certain kinds of specific relief obtainable in civil suits;  
Preamble It is hereby enacted as follows :—

### PART I.—PRELIMINARY.

1. This Act may be called “The Specific Relief Act, 1877 ”.  
Short title

It extends to the whole of British India, except the Scheduled Districts as defined in Act No. XIV of 1874 :  
Local extent

And it shall come into force on the first day of May 1877.  
Commencement

NOTE—The Act has been extended to the Scheduled Districts of the Punjab by Notification No 145 J, dated 18th September 1877—(*Gazette of India of 22nd idem*)

2. On and from that day the Acts specified in the schedule hereto annexed shall be repealed to the extent mentioned in its third column.  
Repeal of enactments

3. In this Act, unless there be something repugnant in the subject or context,—  
Interpretation-clause

‘obligation’ includes every duty enforceable by law :

‘trust’ includes every species of express, implied, or constructive fiduciary ownership :

‘trustee’ includes every person holding, expressly, by implication, or constructively, a fiduciary character :

### Illustrations

(a) Z bequeaths land to A, ‘not doubting that he will pay thereout an annuity of Rs 1,000 to B for his life’ A accepts the bequest A is a trustee within the meaning of this Act for B to the extent of the annuity

(b). A is the legal, medical, or spiritual adviser of B By availing himself of his situation as such adviser, A gains some pecuniary advantage which might otherwise have accrued to B A is a trustee for B within the meaning of this Act of such advantage

(c) A, being B's banker, discloses for his own purpose the state of B's account A is a trustee, within the meaning of this Act, for B, of the benefit gained by him by means of such disclosure

(d). A, the mortgagee of certain leaseholds, renews the lease in his own name A is a trustee within the meaning of this Act of the renewed lease for those interested in the original lease.

(e) A, one of several partners, is employed to purchase goods for the firm. A, unknown to his co-partners, supplies them, at the market-price, with goods previously bought by himself when the price was lower, and thus makes a considerable profit. A is a trustee, for his co-partners, within the meaning of this Act of the profit so made.

(f) A, the manager of B's indigo factory, becomes agent for C, a vendor of indigo-seed, and receives, without B's assent, commission on the seed purchased from C for the factory. A is a trustee, within the meaning of this Act, for B, of the commission so received.

(g) A buys certain land with notice that B has already contracted to buy it. A is a trustee, within the meaning of this Act, for B, of the land so bought.

(h) A buys land from B, having notice that C is in occupation of the land. A omits to make any inquiry as to the nature of C's interest therein. A is a trustee, within the meaning of this Act for C, to the extent of that interest.

'settlement' means any instrument (other than a will or codicil as defined by the Indian Succession Act) whereby the destination or devolution of successive interests in moveable or immoveable property is disposed of or is agreed to be disposed of :

and all words occurring in this Act, which are defined in the Indian Contract Act, 1872, shall be deemed to have the meanings respectively assigned to them by that Act.

Savings

4. Except where it is herein otherwise expressly enacted, nothing in this Act shall be deemed—

(a) to give any right to relief in respect of any agreement which is not a contract ;

(b) to deprive any person of any right to relief, other than specific performance, which he may have under any contract ; or

(c) to affect the operation of the Indian Registration Act on documents.

Specific relief how given

5. Specific relief is given—

(a) by taking possession of certain property and delivering it to a claimant ;

(b) by ordering a party to do the very act which he is under an obligation to do ;

(c) by preventing a party from doing that which he is under an obligation not to do ;

(d) by determining and declaring the rights of parties otherwise than by an award of compensation ; or

(e) by appointing a Receiver.

Preventive relief

6. Specific relief granted under clause (c) of Section 5 is called preventive relief.

Relief not granted to enforce penal law

7. Specific relief cannot be granted for the mere purpose of enforcing a penal law.

## PART II.—OF SPECIFIC RELIEF.

### CHAPTER I.

#### OF RECOVERING POSSESSION OF PROPERTY.

##### (a).—Possession of Immoveable Property.

Recovery of specific immoveable property.

8. A person entitled to the possession of specific immoveable property may recover it in the manner prescribed by the Code of Civil Procedure.



9. If any person is dispossessed without his consent of immoveable property otherwise than in due course of law, he or any person claiming through him may, by suit instituted within six months from the date of the dispossession, recover possession thereof, notwithstanding any other title that may be set up in such suit.

Nothing in this section shall bar any person from suing to establish his title to such property and to recover possession thereof.

No suit under this section shall be brought against the Government.

No appeal shall lie from any order or decree passed in any suit instituted under this section, nor shall any review of any such order or decree be allowed.

NOTE.—See the Court Fees Act (VII of 1870), Section 35, Note (j).

*(b).—Possession of Moveable Property.*

10. A person entitled to the possession of specific moveable property may recover the same in the manner prescribed by the Code of Civil Procedure.

EXPLANATION 1.—A trustee may sue under this section for the possession of property to the beneficial interest in which the person for whom he is trustee is entitled.

EXPLANATION 2.—A special or temporary right to the present possession of property is sufficient to support a suit under this section.

*Illustrations*

(a). A bequeaths land to B for his life, with remainder to C. A dies. B enters on the land, but C, without B's consent, obtains possession of the title deeds. B may recover them from C.

(b). A pledges certain jewels to B to secure a loan. B disposes of them before he is entitled to do so. A, without having paid or tendered the amount of the loan, sues B for possession of the jewels. The suit should be dismissed, as A is not entitled to their possession, whatever right he may have to secure their safe custody.

(c). A receives a letter addressed to him by B. B gets back the letter without A's consent, A has such a property therein as entitles him to recover it from B.

(d). A deposits books and papers for safe custody with B. B loses them and C finds them, but refuses to deliver them to B when demanded. B may recover them from C, subject to C's right, if any, under Section 168 of the Indian Contract Act, 1872.

(e). A, a warehouse-keeper, is charged with the delivery of certain goods to Z, which B takes out of A's possession. A may sue B for the goods.

11. Any person having the possession or control of a particular article of moveable property, of which he is not the owner, may be compelled specifically to deliver it to the person entitled to its immediate possession, in any of the following cases :

(a) When the thing claimed is held by the defendant as the agent or trustee of the claimant ;

(b) when compensation in money would not afford the claimant adequate relief for the loss of the thing claimed ;

(c) when it would be extremely difficult to ascertain the actual damage caused by its loss ;

(d) when the possession of the thing claimed has been wrongfully transferred from the claimant.

*Illustrations.*

of clause (a).—A proceeding to Europe, leaves his furniture in charge of B as his agent during his absence. B, without A's authority, pledges the furniture to C, and C, knowing that

B had no right to pledge the furniture, advertises it for sale. C may be compelled to deliver the furniture to A, for he holds it as A's trustee

of clause (b) —Z has got possession of an idol belonging to A's family, and of which A is the proper custodian Z may be compelled to deliver the idol to A

of clause (c) —A is entitled to a picture by a dead painter and a pair of rare China vases B has possession of them The articles are of too special a character to bear an ascertainable market-value. B may be compelled to deliver them to A.

## CHAPTER II.

### OF THE SPECIFIC PERFORMANCE OF CONTRACTS.

#### (a). *Contracts which may be specifically enforced.*

12. Except as otherwise provided in this chapter the specific performance of any contract may in the discretion of the Court be enforced—  
Cases in which specific performance enforceable

(a) when the act agreed to be done is in the performance, wholly or partly, of a trust ;

(b) when there exists no standard for ascertaining the actual damage caused by the non-performance of the act agreed to be done ,

(c) when the act agreed to be done is such that pecuniary compensation for its non-performance would not afford adequate relief ; or

(d) when it is probable that pecuniary compensation cannot be got for the non-performance of the act agreed to be done.

EXPLANATION —Unless and until the contrary is proved, the Court shall presume that the breach of a contract to transfer immoveable property cannot be adequately relieved by compensation in money, and that the breach of a contract to transfer moveable property can be thus relieved.

#### *Illustrations*

\* \* \* \* \*

of clause (b) —A agrees to buy and B agrees to sell, a picture by a dead painter and two rare China vases A may compel B specifically to perform this contract, for there is no standard for ascertaining the actual damage which would be caused by its non performance

of clause (c) — A contracts with B to sell him a house for Rs 1,000 B is entitled to a decree directing A to convey the house to him, he paying the purchase money

In consideration of being released from certain obligations imposed on it by its Act of Incorporation, a railway company contract with Z to make an arch way through their railway to connect lands of Z severed by the railway, to construct a road between certain specified points, to pay a certain annual sum towards the maintenance of this road, and also to construct a siding and a wharf as specified in the contract Z is entitled to have this contract specifically enforced, for his interest in its performance cannot be adequately compensated for by money and the Court may appoint a proper person to superintend the construction of the archway, road, siding and wharf

A contracts to sell, and B contracts to buy, a certain number of railway-shares of a particular description A refuses to complete the sale B may compel A specifically to perform this agreement, for the shares are limited in number and not always to be had in the market, and their possession carries with it the status of a shareholder, which cannot otherwise be procured

A contracts with B to paint a picture for B, who agrees to pay therefor Rs 1,000. The picture is painted B is entitled to have it delivered to him on payment or tender of the Rs 1,000.

of clause (d) —A transfers without endorsement, but for valuable consideration, a promissory note to B A becomes insolvent, and C is appointed his assignee B may compel C to endorse the note, for C has succeeded to A's liabilities, and a decree for pecuniary compensation for not endorsing the note would be fruitless

NOTE.—The first Illustration to this section is repealed by Act II of 1882

### 13. Notwithstanding anything contained in Section 56 of the Indian

Contracts of which the subject has partially ceased to exist.

Contract Act, a contract is not wholly impossible of performance, because a portion of its subject-matter, existing at its date, has ceased to exist at the time of the performance.

#### Illustrations.

(a). A contracts to sell a house to B for a lakh of rupees. The day after the contract is made, the house is destroyed by a cyclone. B may be compelled to perform his part of the contract by paying the purchase-money.

(b). In consideration of a sum of money payable by B, A contracts to grant an annuity to B for B's life. The day after the contract has been made, B is thrown from his horse and killed. B's representative may be compelled to pay the purchase-money.

### 14. Where a party to a contract is unable to perform the whole of his

Specific performance of part of contract where part unperformed is small

part of it, but the part which must be left unperformed bears only a small proportion to the whole in value, and admits of compensation in money, the Court may, at the suit of either party, direct the specific performance of so much of the contract as can be performed, and award compensation in money for the deficiency.

#### Illustrations.

(a). A contracts to sell B a piece of land consisting of 100 bighas. It turns out that 98 bighas of the land belong to A, and the two remaining bighas to a stranger, who refuses to part with them. The two bighas are not necessary for the use or enjoyment of the 98 bighas, nor so important for such use or enjoyment that the loss of them may not be made good in money. A may be directed at the suit of B to convey to B the 98 bighas and to make compensation to him for not conveying the two remaining bighas; or B may be directed, at the suit of A, to pay to A, on receiving the conveyance and possession of the land, the stipulated purchase-money, less a sum awarded as compensation for the deficiency.

(b). In a contract for the sale and purchase of a house and lands for two lakhs of rupees, it is agreed that part of the furniture should be taken at a valuation. The Court may direct specific performance of the contract notwithstanding the parties are unable to agree as to the valuation of the furniture, and may either have the furniture valued in the suit and include it in the decree for specific performance, or may confine its decree to the house.

### 15. Where a party to a contract is unable to perform the whole of his

Specific performance of part of a contract where the part unperformed is large

part of it, and the part which must be left unperformed forms a considerable portion of the whole, or does not admit of compensation in money, he is not entitled to obtain a decree for specific performance. But the Court may, at the suit of the other party, direct the party in default to perform specifically so much of his part of the contract as he can perform, provided that the plaintiff relinquishes all claim to further performance, and all right to compensation either for the deficiency, or for the loss or damage sustained by him through the default of the defendant.

#### Illustrations.

(a). A contracts to sell to B a piece of land consisting of 100 bighas. It turns out that 50 bighas of the land belong to A, and the other 50 bighas to a stranger, who refuses to part with them. A cannot obtain a decree against B for the specific performance of the contract; but if B is willing to pay the price agreed upon, and to take the 50 bighas which belong to A, waiving all right to compensation either for the deficiency or for loss sustained by him through A's neglect, or default, B is entitled to a decree directing A to convey those 50 bighas to him on payment of the purchase-money.

(b). A contracts to sell to B an estate with a house and garden for a lakh of rupees. The garden is important for the enjoyment of the house. It turns out that A is unable to convey the garden. A cannot obtain a decree against B for the specific performance of the contract; but if B is willing to pay the price agreed upon, and to take the estate and house without the garden, waiving all right to compensation either for the deficiency or for loss sustained by him through A's neglect or default, B is entitled to a decree, directing A to convey the house to him on payment of the purchase-money.

16. When a part of a contract which, taken by itself, can and ought to be specifically performed, stands on a separate and independent footing from another part of the same contract which cannot or ought not to be specifically performed, the Court may direct specific performance of the former part.

17. The Court shall not direct the specific performance of a part of a contract except in cases coming under one or other of the three last preceding sections.

18. Where a person contracts to sell or let certain property, having only an imperfect title thereto, the purchaser or lessee (except as otherwise provided by this chapter) has the following rights :—

(a) if the vendor or lessor has, subsequently to the sale or lease, acquired any interest in the property, the purchaser or lessee may compel him to make good the contract out of such interest ;

(b) where the concurrence of other persons is necessary to validate the title and they are bound to convey at the vendor's or lessor's request, the purchaser or lessee may compel him to procure such concurrence ;

(c) where the vendor professes to sell unincumbered property, but the property is mortgaged for an amount not exceeding the purchase-money, and the vendor has in fact only a right to redeem it, the purchaser may compel him to redeem the mortgage, and to obtain a conveyance from the mortgagee ;

(d) where the vendor or lessor sues for specific performance of the contract, and the suit is dismissed on the ground of his imperfect title, the defendant has a right to a return of his deposit (if any) with interest thereon, to his costs of the suit, and to a lien for such deposit, interest, and costs on the interest of the vendor or lessor in the property agreed to be sold or let.

19. Any person suing for the specific performance of a contract, may also ask for compensation for its breach, either in addition to, or in substitution for, such performance.

If in any such suit the Court decides that specific performance ought not to be granted, but that there is a contract between the parties which has been broken by the defendant, and that the plaintiff is entitled to compensation for that breach, it shall award him compensation accordingly.

If in any suit the Court decides that specific performance ought to be granted, but that it is not sufficient to satisfy the justice of the case, and that some compensation for breach of the contract should also be made to the plaintiff, it shall award him such compensation accordingly.

Compensation awarded under this section may be assessed in such manner as the Court may direct.

EXPLANATION.—The circumstances that the contract has become incapable of specific performance, does not preclude the Court from exercising the jurisdiction conferred by this section.

#### Illustrations.

of the second paragraph :— A contracts to sell a hundred maunds of rice to B. B brings a suit to compel A to perform the contract or to pay compensation. The Court is of opinion

that A has made a valid contract and has broken it, without excuse, to the injury of B, but that specific performance is not the proper remedy. It shall award to B such compensation as it deems just.

of the third paragraph :—A contracts with B to sell him a house for Rs. 1,000, the price to be paid and the possession given on the 1st January 1877. A fails to perform his part of the contract, and brings his suit for specific performance and compensation, which is decided in his favour on the 1st January 1878. The decree may besides ordering specific performance, award to B compensation for any loss which he has sustained by A's refusal.

of the explanation :—A, a purchaser, sues B, his vendor, for specific performance of a contract for the sale of a patent. Before the hearing of the suit, the patent expires. The Court may award A compensation for the non-performance of the contract and may, if necessary, amend the plaint for that purpose.

A sues for the specific performance of a resolution passed by the directors of a public company, under which he was entitled to have a certain number of shares allotted to him, and for compensation for the non-performance of the resolution. All the shares had been allotted before the institution of the suit. The Court may, under this section, award A compensation for the non-performance.

**20.** A contract, otherwise proper to be specifically enforced, may be thus enforced, though a sum be named in it as the amount to be paid in case of its breach, and the party in default is willing to pay the same.

Liquidation of damages not a bar to specific performance.

#### *Illustration.*

A contracts to grant B an underlease of property held by A under C, and that he will apply to C for a license necessary to the validity of the underlease, and that, if the license is not procured, A will pay B Rs. 10,000. A refuses to apply for the license, and offers to pay B the Rs. 10,000. B is nevertheless entitled to have the contract specifically enforced if C consents to give the license.

#### *(b). Contracts which cannot be specifically enforced.*

Contracts not specifically enforceable. **21.** The following contracts cannot be specifically enforced :—

(a) a contract for the non-performance of which compensation in money is an adequate relief ;

(b) a contract which runs into such minute or numerous details, or which is so dependent on the personal qualifications or volition of the parties, or otherwise from its nature is such, that the Court cannot enforce specific performance of its material terms ;

(c) a contract the terms of which the Court cannot find with reasonable certainty ;

(d) a contract which is in its nature revocable ;

(e) a contract made by trustees either in excess of their powers or in breach of their trust ;

(f) a contract made by or on behalf of a corporation or public company created for special purposes, or by the promoters of such company, which is in excess of its powers ;

(g) a contract the performance of which involves the performance of a continuous duty extending over a longer period than three years from its date ;

(h) a contract of which a material part of the subject-matter supposed by both parties to exist has, before it has been made, ceased to exist.

And, save as provided by the Code of Civil Procedure, no contract to refer a controversy to arbitration shall be specifically enforced ; but if any person who has made such a contract and has refused to perform it, sues in respect of any subject which he has contracted to refer, the existence of such contract shall bar the suit.

*Illustrations.*

to (a).—A contracts to sell, and B contracts to buy, a lakh of Rupees in the four per cent. loan of the Government of India :

A contracts to sell, and B contracts to buy, 40 chests of indigo at Rs 1,000 per chest :

In consideration of certain property having been transferred by A and B, B contracts to open a credit in A's favour to the extent of Rs 10,000, and to honour A's drafts to that amount.

The above contracts cannot be specifically enforced, for in the first and the second both A and B, and in the third A, would be reimbursed by compensation in money.

to (b).—A contracts to render personal service to B :

A contracts to employ B on personal service :

A, an author, contracts with B, a publisher, to complete a literary work.

B cannot enforce specific performance of these contracts.

A contracts to buy B's business at the amount of a valuation to be made by two valuers, one to be named by A and the other by B. A and B each name a valuer, but before the valuation is made, A instructs his valuer not to proceed.

By a charter party entered into in Calcutta between A, the owner of a ship, and B, the charterer, it is agreed that the ship shall proceed to Rangoon, and there load a cargo of rice, and thence proceed to London, freight to be paid, one-third on arrival at Rangoon, and two-thirds on delivery of the cargo in London :

A lets land to B, and B contracts to cultivate it in a particular manner for three years, next after the date of the lease.

A and B contract that, in consideration of annual advances to be made by A, B will for three years next after the date of the contract, grow particular crops on the land in his possession, and deliver them to A when cut and ready for delivery :

A contracts with B that, in consideration of Rs. 1,000 to be paid to him by B, he will paint a picture for B :

A contracts with B to execute certain works which the Court cannot superintend :

A contracts to supply B with all the goods of a certain class which B may require :

A contracts with B to take from B a lease of a certain house for a specified term, at a specified rent, "if the drawing-room is handsomely decorated," even if it is held to have so much certainty that compensation can be recovered for its breach.

A contracts to marry B.

The above contracts cannot be specifically enforced

to (c).—A, the owner of a refreshment-room, contracts with B to give him accommodation there for the sale of his goods and to furnish him with the necessary appliances. A refuses to perform his contract. The case is one for compensation and not for specific performance, the amount and nature of the accommodation and appliances being undefined.

to (d).—A and B contract to become partners in a certain business. the contract not specifying the duration of the proposed partnership. The contract cannot be specifically performed, for if it were so performed, either A or B might at once dissolve the partnership.

to (e).—A is a trustee of land with power to lease it for seven years. He enters into a contract with B to grant a lease of the land for seven years, with a covenant to renew the lease at the expiry of the term. This contract cannot be specifically enforced.

The directors of a company have power to sell the concern with the sanction of a general meeting of the shareholders. They contract to sell it without any such sanction. This contract cannot be specifically enforced

Two trustees, A and B, empowered to sell trust-property worth a lakh of rupees, contract to sell it to C for Rs. 30,000. The contract is so disadvantageous as to be a breach of trust. C cannot enforce its specific performance.

The promoters of a company for working mines contract that the company, when formed, shall purchase certain mineral property. They take no proper precautions to ascertain the value of such property, and in fact agree to pay an extravagant price therefor. They also stipulate that the vendors shall give them a bonus out of the purchase-money. This contract cannot be specifically enforced.

to (f).—A company existing for the sole purpose of making and working a railway, contracts for the purchase of a piece of land for the purpose of erecting a cotton-mill thereon. This contract cannot be specifically enforced

to (g).—A contracts to let for twenty-one years to B the right to use such part of a certain railway made by A as was upon B's land, and that B should have a right of running carriages over the whole line on certain terms, and might require A to supply the necessary

engine-power, and that A should during the term keep the whole railway in good repair. Specific performance of this contract must be refused to B.

to (h).—A contracts to pay an annuity to B for the lives of C and D. It turns out that at the date of the contract, C, though supposed by A and B to be alive, was dead. The contract cannot be specifically performed.

(c).—*Of the discretion of the Court.*

**22.** The jurisdiction to decree specific performance is discretionary, and the Court is not bound to grant such relief merely because it is lawful to do so: but the discretion of the Court is not arbitrary, but sound and reasonable, guided by judicial principles and capable of correction by a Court of appeal.

The following are cases in which the Court may properly exercise a discretion not to decree specific performance:—

I. Where the circumstances under which the contract is made are such as to give the plaintiff an unfair advantage over the defendant, though there may be no fraud or misrepresentation on the plaintiff's part.

*Illustrations.*

(a). A, a tenant for life of certain property, assigns his interest therein to B. C contracts to buy, and B contracts to sell, that interest. Before the contract is completed, A receives a mortal injury from the effects of which he dies the day after the contract is executed. If B and C were equally ignorant or equally aware of the fact, B is entitled to specific performance of the contract. If B knew the fact, and C did not, specific performance of the contract should be refused to B.

(b). A contracts to sell to B the interest of C in certain stock-in-trade. It is stipulated that the sale shall stand good, even though it should turn out that C's interest is worth nothing. In fact, the value of C's interest depends on the result of certain partnership accounts on which he is heavily in debt to his partners. This indebtedness is known to A, but not to B. Specific performance of the contract should be refused to A.

(c). A contracts to sell, and B contracts to buy, certain land. To protect the land from floods, it is necessary for its owner to maintain an expensive embankment. B does not know of this circumstance, and A conceals it from him. Specific performance of the contract should be refused to A.

(d). A's property is put up to auction. B requests C, A's attorney, to bid for him. C does this inadvertently and in good faith. The persons present seeing the vendors's attorney bidding, think that he is a mere puffer and cease to compete. The lot is knocked down to B at a low price. Specific performance of the contract should be refused to B.

II. Where the performance of the contract would involve some hardship on the defendant which he did not foresee, whereas its non-performance would involve no such hardship on the plaintiff.

*Illustrations.*

(a). A is entitled to some land under his father's will on condition that if he sells it within twenty-five years, half the purchase-money shall go to B. A, forgetting the condition, contracts, before the expiration of the twenty-five years, to sell the land to C. Here the enforcement of the contract would operate so harshly on A, that the Court will not compel its specific performance in favour of C.

(f). A and B, trustees, join their beneficiary, C, in a contract to sell the trust estate to D, and personally agree to exonerate the estate from heavy incumbrances to which it is subject. The purchase-money is not nearly enough to discharge those incumbrances, though, at the date of the contract, the vendors believed it to be sufficient. Specific performance of the contract should be refused to D.

(g). A, the owner of an estate, contracts to sell it to B, and stipulates that he, A, shall not be obliged to define its boundary. The estate really comprises a valuable property not known to either to be part of it. Specific performance of the contract should be refused to B, unless he waives his claim to the unknown property.

(h). A contracts with B to sell him certain land, and to make a road to it from a certain railway station. It is found afterwards that A cannot make the road without exposing himself to litigation. Specific performance of the part of the contract relating to the road should be refused to B, even though it may be held that he is entitled to specific performance of the rest with compensation for loss of the road.

(i). A, a lessee of mines, contracts with B, his lessor, that at any time during the continuance of the lease B may give notice of his desire to take the machinery and plant used in and about the mines, and that he shall have the articles specified in his notice delivered to him at a valuation on the expiry of the lease. Such a contract might be most injurious to the lessee's business, and specific performance of it should be refused to B.

(j). A contracts to buy certain land from B. The contract is silent as to access to the land. No right of way to it can be shown to exist. Specific performance of the contract should be refused to B.

(k). A contracts with B to buy from B's manufactory and not elsewhere all the goods of a certain class used by A in his trade. The Court cannot compel B to supply the goods, but if he does not supply them, A may be ruined, unless he is allowed to buy them elsewhere. Specific performance of the contract should be refused to B.

The following is a case in which the Court may properly exercise a discretion to decree specific performance :—

III. Where the plaintiff has done substantial acts or suffered losses in consequence of a contract capable of specific performance.

*Illustration.*

A sells land to a railway company who contract to execute certain works for his convenience. The company take the land and use it for their railway. Specific performance of the contract to execute the works should be decreed in favour of A.

(d).—*For whom Contracts may be specifically enforced.*

23. Except as otherwise provided by this chapter, the specific performance of a contract may be obtained by—

Who may obtain specific performance.

(a) any party thereto ;

(b) the representative in interest, or the principal, of any party thereto : provided that where the learning, skill, solvency, or any personal quality of such party is a material ingredient in the contract, or where the contract provides that his interest shall not be assigned, his representative in interest or his principal shall not be entitled to specific performance of the contract, unless where his part thereof has already been performed ;

(c) where the contract is a settlement on marriage, or a compromise of doubtful rights between members of the same family, any person beneficially entitled thereunder ;

(d) where the contract has been entered into by a tenant for life in due exercise of a power, the remainderman ;

(e) a reversioner in possession, where the agreement is a covenant entered into with his predecessor in title, and the reversioner is entitled to the benefit of such covenant ;

(f) a reversioner in remainder, where the agreement is such a covenant, and the reversioner is entitled to the benefit thereof, and will sustain material injury by reason of its breach ;

(g) when a public company has entered into a contract and subsequently becomes amalgamated with another public company, the new company which arises out of the amalgamation ;

(h) when the promoters of a public company have, before its incorporation, entered into a contract for the purposes of the company, and such contract is warranted by the terms of the incorporation, the company.

(e).—*For whom Contracts cannot be specifically enforced.*

Personal bars to the relief.

24. Specific performance of a contract cannot be enforced in favour of a person—

(a) who could not recover compensation for its breach ;



(b) who has become incapable of performing, or violates, any essential term of the contract that on his part remains to be performed ;

(c) who has already chosen his remedy and obtained satisfaction for the alleged breach of contract ;

(d) who, previously to the contract, had notice that a settlement of the subject-matter thereof (though not founded on any valuable consideration) had been made and was then in force.

*Illustrations.*

to clause (a).—A, in the character of agent for B, enters into an agreement with C to buy C's house. A is in reality acting not as agent for B, but on his own account. A cannot enforce specific performance of this contract.

to clause (b).—A contracts to sell B a house and to become tenant thereof for a term of fourteen years from the date of the sale at a specified yearly rent. A becomes insolvent. Neither he nor his assignee can enforce specific performance of the contract.

A contracts to sell B a house and garden in which there are ornamental trees, a material element in the value of the property as a residence. A, without B's consent, fells the trees. A cannot enforce specific performance of the contract.

A, holding land under a contract with B for a lease, commits waste, or treats the land in an unhusbandlike manner. A cannot enforce specific performance of the contract.

A contracts to let, and B contracts to take, an unfinished house, B contracting to finish the house, and the lease to contain covenants on the part of A to keep the house in repair. B finishes the house in a very defective manner : he cannot enforce the contract specifically, though A and B may sue each other for compensation for breach of it.

to clause (c).—A contracts to let, and B contracts to take, a house for a specified term at a specified rent. B refuses to perform the contract. A thereupon sues for, and obtains, compensation for the breach. A cannot obtain specific performance of the contract.

Contracts to sell property by one who has no title, or who is a voluntary settler.

25. A contract for the sale or letting of property, whether moveable or immoveable, cannot be specifically enforced in favour of a vendor or lessor—

(a) who, knowing himself not to have any title to the property, has contracted to sell or let the same ;

(b) who, though he entered into the contract believing that he had a good title to the property, cannot at the time fixed by the parties or by the Court for the completion of the sale or letting, give the purchaser or lessee a title free from reasonable doubt ;

(c) who, previous to entering into the contract, has made a settlement (though not founded on any valuable consideration) of the subject-matter of the contract.

*Illustrations.*

(a). A, without C's authority, contracts to sell to B an estate which A knows to belong to C. A cannot enforce specific performance of this contract, even though C is willing to confirm it.

(b). A bequeaths his land to trustees, declaring that they may sell it with the consent in writing of B. B gives a general prospective assent in writing to any sale which the trustees may make. The trustees then enter into a contract with C to sell him the land. C refuses to carry out the contract. The trustees cannot specifically enforce this contract, as, in the absence of B's consent to the particular sale to C, the title which they can give C is, as the law stands, not free from reasonable doubt.

(c). A, being in possession of certain land, contracts to sell it to Z. On enquiry it turns out that A claims the land as heir of B, who left the country several years before, and is generally believed to be dead, but of whose death there is no sufficient proof. A cannot compel Z specifically to perform the contract.

(d). A out of natural love and affection, makes a settlement of certain property on his brothers and their issue, and afterwards enters into a contract to sell the property to a stranger. A cannot enforce specific performance of this contract so as to override the settlement, and thus prejudice the interests of the persons claiming under it.

(f). *For whom Contracts cannot be specifically enforced except with a variation.*

**26.** Where a plaintiff seeks specific performance of a contract in writing, to which the defendant sets up a variation, the plaintiff cannot obtain the performance sought, except with the variation so set up, in the following cases, namely:—

Non-enforcement except  
with variation

(a) where by fraud or mistake of fact the contract of which performance is sought is in terms different from that which the defendant supposed it to be when he entered into it;

(b) where by fraud, mistake of fact, or surprise the defendant entered into the contract under a reasonable misapprehension as to its effect as between himself and the plaintiff;

(c) where the defendant, knowing the terms of the contract and understanding its effect, has entered into it relying upon some misrepresentation by the plaintiff, or upon some stipulation on the plaintiff's part, which adds to the contract, but which he refuses to fulfil;

(d) where the object of the parties was to produce a certain legal result, which the contract as framed is not calculated to produce;

(e) where the parties have, subsequently to the execution of the contract, contracted to vary it.

#### Illustrations

(a) A, B, and C sign a writing by which they purport to contract each to enter into a bond to D for Rs. 1,000. In a suit by D to make A, B, and C separately liable each to the extent of Rs. 1,000, they prove that the word 'each' was inserted by mistake; that the intention was that they should give a joint bond for Rs. 1,000. A can obtain the performance sought only with the variation thus set up.

(b). A sues B to compel specific performance of a contract in writing to buy a dwelling-house. B proves that he assumed that the contract included an adjoining yard, and the contract was so framed as to leave it doubtful whether the yard was so included or not. The Court will refuse to enforce the contract, except with the variation set up by B.

(c) A contracts in writing to let to B a wharf, together with a strip of A's land delineated in a map. Before signing the contract, B proposed orally that he should be at liberty to substitute for the strip mentioned in the contract another strip of A's land of the same dimensions, and to this A expressly assented. B then signed the written contract. A cannot obtain specific performance of the written contract, except with the variation set up by B.

(d) A and B enter into negotiations for the purpose of securing land to B for his life, with remainder to his issue. They execute a contract the terms of which are found to confer an absolute ownership on B. The contract so framed cannot be specifically enforced.

(e). A contracts in writing to let a house to B, for a certain term, at the rent of Rs. 100 per month, putting it first into tenantable repair. The house turns out to be not worth repairing, so, with B's consent, A pulls it down and erects a new house in its place; B contracting orally to pay rent at Rs. 120 per mensem. B then sues to enforce specific performance of the contract in writing. He cannot enforce it except with the variations made by the subsequent oral contract.

(g). *Against whom Contracts may be specifically enforced.*

Relief against parties and  
persons claiming under  
them by subsequent title

**27.** Except as otherwise provided by this chapter, specific performance of a contract may be enforced against—

(a) either party thereto;

(b) any other person claiming under him by a title arising subsequently to the contract, except a transferee for value who has paid his money in good faith and without notice of the original contract;

(c) any person claiming under a title which, though prior to the contract and known to the plaintiff, might have been displaced by the defendant;

(d) when a public company has entered into a contract and subsequently becomes amalgamated with another public company, the new company which arises out of the amalgamation ;

(e) when the promoters of a public company have, before its incorporation, entered into a contract, the company ; provided that the company has ratified and adopted the contract and the contract is warranted by the terms of the incorporation.

#### *Illustrations*

to clause (b).—A contracts to convey certain land to B by a particular day. A dies intestate before that day without having conveyed the land. B may compel A's heir or other representative in interest to perform the contract specifically.

A contracts to sell certain land to B for Rs 5,000. A afterwards conveys the land for Rs 6,000 to C, who has notice of the original contract. B may enforce specific performance of the contract as against C.

A contracts to sell land to B for Rs 5,000. B takes possession of the land. Afterwards A sells it to C for Rs 6,000. C makes no enquiry of B relating to his interest in the land. B's possession is sufficient to affect C with notice of his interest, and he may enforce specific performance of the contract against C.

A contracts in consideration of Rs 1,000 to bequeath certain of his lands to B. Immediately after the contract A dies intestate, and C takes out administration to his estate. B may enforce specific performance of the contract against C.

A contracts to sell certain land to B. Before the completion of the contract A becomes a lunatic, and C is appointed his committee. B may specifically enforce the contract against C.

to clause (c).—A, the tenant for life of an estate, with remainder to B, in due exercise of a power conferred by the settlement under which he is tenant for life, contracts to sell the estate to C, who has notice of the settlement. Before the sale is completed, A dies. C may enforce specific performance of the contract against B.

A and B are joint tenants of land, his undivided moiety of which either may alien in his lifetime, but which, subject to that right, devolves on the survivor. A contracts to sell his moiety to C and dies. C may enforce specific performance of the contract against B.

(h). *Against whom Contracts cannot be specifically enforced.*

**28.** Specific performance of a contract cannot be enforced against a party thereto in any of the following cases :—

What parties cannot be compelled to perform

(a) if the consideration to be received by him is so grossly inadequate with reference to the state of things existing at the date of the contract, as to be either by itself or coupled with other circumstances evidence of fraud, or of undue advantage taken by the plaintiff ;

(b) if his assent was obtained by the misrepresentation (whether wilful or innocent), concealment, circumvention, or unfair practices of any party to whom performance would become due under the contract, or by any promise of such party which has not been substantially fulfilled ;

(c) if his assent was given under the influence of mistake of fact, misapprehension, or surprise : Provided that, when the contract provides for compensation in case of mistake, compensation may be made for a mistake within the scope of such provision, and the contract may be specifically enforced in other respects if proper to be so enforced.

#### *Illustrations*

to clause (c).—A, one of two executors, in the erroneous belief that he had the authority of his co-executor, enters into an agreement for the sale to B of his testator's property. B cannot insist on the sale being completed.

A directs an auctioneer to sell certain land. A afterwards revokes the auctioneer's authority as to 20 bighas of his land, but the auctioneer inadvertently sells the whole to B, who has not notice of the revocation. B cannot enforce specific performance of the agreement.

(i). *The Effect of dismissing a Suit for Specific Performance.*

- 29.** The dismissal of a suit for specific performance of a contract, or part thereof, shall bar the plaintiff's right to sue for compensation for the breach of such contract or part, as the case may be.

Bar of suit for breach after dismissal.

(i). *Awards and Directions to execute Settlements.*

Application of preceding sections to awards and testamentary directions to execute settlements.

- 30** The provisions of this chapter as to contracts shall, *mutatis mutandis*, apply to awards and to directions in a will or codicil to execute a particular settlement.

## CHAPTER III.

## OF THE RECTIFICATION OF INSTRUMENTS.

- 31.** When, through fraud or a mutual mistake of the parties, a contract or other instrument in writing does not truly express their intention, either party, or his representative in interest, may institute a suit to have the instrument rectified; and if the Court find it clearly proved that there has been fraud or mistake in framing the instrument, and ascertain the real intention of the parties in executing the same, the Court may in its discretion rectify the instrument, so as to express that intention, so far as this can be done without prejudice to rights acquired by third persons in good faith and for value.

When instrument may be rectified.

*Illustrations.*

(a). A intending to sell to B his house and one of three godowns adjacent to it, executes a conveyance prepared by B, in which, through B's fraud, all three godowns are included. Of the two godowns which were fraudulently included, B gives one to C and lets the other to D for a rent, neither C nor D having any knowledge of the fraud. The conveyance may, as against B and C, be rectified so as to exclude from it the godown given to C; but it cannot be rectified so as to affect D's lease.

(b) By a marriage-settlement, A, the father of B, the intended wife, covenants with C, the intended husband, to pay to C, his executors, administrators, and assigns, during A's life, an annuity of Rs. 5,000. C dies insolvent and the official assignee claims the annuity from A. The Court, on finding it clearly proved that the parties always intended that this annuity should be paid as a provision for B and her children, may rectify the settlement and decree that the assignee has no right to any part of the annuity.

- 32.** For the purpose of rectifying a contract in writing, the Court must be satisfied that all the parties thereto intended to make an equitable and conscientious agreement.

Presumption as to intent of parties.

- 33.** In rectifying a written instrument, the Court may inquire what the instrument was intended to mean, and what were intended to be its legal consequences, and is not confined to the inquiry what the language of the instrument was intended to be.

Principles of rectification.

- 34.** A contract in writing may be first rectified, and then, if the plaintiff has so prayed in his plaint, and the Court thinks fit, specifically enforced.

Specific enforcement of rectified contract.

*Illustration*

A contracts in writing to pay his attorney, B, a fixed sum in lieu of costs. The contract contains mistakes as to the name and rights of the client, which, if construed strictly, would exclude B from all rights under it. B is entitled, if the Court thinks fit, to have it rectified, and to an order for payment of the sum, as if at the time of its execution it had expressed the intention of the parties.

## CHAPTER IV.

## OF THE RESCISSION OF CONTRACTS.

**35.** Any person interested in a contract in writing may sue to have it rescinded, and such rescission may be adjudged by the Court in any of the following cases, namely :—

- (a) where the contract is voidable or terminable by the plaintiff ;  
 (b) where the contract is unlawful for causes not apparent on its face, and the defendant is more to blame than the plaintiff ;  
 (c) where a decree for specific performance of a contract of sale, or of a contract to take a lease, has been made, and the purchaser or lessee makes default in payment of the purchase-money or other sums which the Court has ordered him to pay.

When the purchaser or lessee is in possession of the subject-matter, and the Court finds that such possession is wrongful, the Court may also order him to pay to the vendor or lessor the rents and profits, if any, received by him as such possessor.

In the same case, the Court may by order in the suit in which the decree has been made and not complied with, rescind the contract either so far as regards the party in default, or altogether, as the justice of the case may require.

*Illustrations*

to (a).—A sells a field to B. There is a right of way over the field of which A has direct personal knowledge, but which he conceals from B. B is entitled to have the contract rescinded.

to (b).—A, an attorney, induces his client B, a Hindu widow, to transfer property to him for the purpose of defrauding B's creditors. Here the parties are not equally in fault, and B is entitled to have the instrument of transfer rescinded.

**36.** Rescission of a contract in writing cannot be adjudged for mere mistake unless the party against whom it is adjudged can be restored to substantially the same position as if the contract had not been made.

NOTE.—The words "in writing" in Sections 35 and 36 have been repealed by Act IV of 1882 in the territories to which that Act extends.

**37.** A plaintiff instituting a suit for the specific performance of a contract in writing may pray in the alternative that, if the contract cannot be specifically enforced, it may be rescinded and delivered up to be cancelled ; and the Court if it refuses to enforce the contract specifically, may direct it to be rescinded and delivered up accordingly.

**38.** On adjudging the rescission of a contract, the Court may require the party to whom such relief is granted to make any compensation to the other which justice may require.

## CHAPTER V.

## OF THE CANCELLATION OF INSTRUMENTS.

**39.** Any person against whom a written instrument is void or voidable, who has reasonable apprehension that such instrument, if left outstanding, may cause him serious injury, may sue to have it adjudged void or voidable, and the Court may, in its discretion, so adjudge it, and order it to be delivered up and cancelled.

If the instrument has been registered under the Registration Act, the Court shall also send a copy of its decree to the officer in whose office the instrument has been so registered, and such officer shall note on the copy of the instrument contained in his books the fact of its cancellation.

*Illustrations*

(a). A, the owner of a ship, by fraudulently representing her to be seaworthy, induces B, an underwriter, to insure her. B may obtain the cancellation of the policy.

(b). A conveys land to B, who bequeaths it to C and dies. Thereupon D gets possession of the land and produces a forged instrument stating that the conveyance was made to B in trust for him. C may obtain the cancellation of the forged instrument.

(c). A, representing that the tenants on his land were all at will, sells it to B, and conveys it to him by an instrument dated the 1st January 1877. Soon after that day, A fraudulently grants to C a lease of part of the lands dated 1st October 1876, and procures the lease to be registered under the Indian Registration Act. B may obtain the cancellation of this lease.

(d). A agrees to sell and deliver a ship to B, to be paid for by B's acceptance of four bills of exchange, for sums amounting to Rs. 30,000, to be drawn by A on B. The bills are drawn and accepted, but the ship is not delivered, according to the agreement. A sues B on one of the bills. B may obtain the cancellation of all the bills.

40. Where an instrument is evidence of different rights or different obligations, the Court may, in a proper case, cancel it in part, and allow it to stand for the residue.

*Illustration*

A draws a bill on B, who endorses it to C, by whom it appears to be endorsed to D, who endorses it to E. C's endorsement is forged. C is entitled to have such endorsement cancelled, leaving the bill to stand in other respects.

41. On adjudging the cancellation of an instrument, the Court may require the party to whom such relief is granted to make any compensation to the other which justice may require.

## CHAPTER VI.

### OF DECLARATORY DECREES.

42. Any person entitled to any legal character, or to any right as to any property, may institute a suit against any person denying, or interested to deny, his title to such character or right, and the Court may in its discretion make therein a declaration that he is so entitled, and the plaintiff need not in such suit ask for any further relief:

Discretion of Court as to declaration of status, or right  
 Provided that no Court shall make any such declaration where the plaintiff, being able to seek further relief than a mere declaration of title, omits to do so.  
 Bar to such declaration.

EXPLANATION.—A trustee of property is a 'person interested to deny' a title adverse to the title of some one who is not in existence, and for whom, if in existence, he would be a trustee.

*Illustrations*

(a). A is lawfully in possession of certain land. The inhabitants of a neighbouring village claim a right of way across the land. A may sue for a declaration that they are not entitled to the right so claimed.

(b). A bequeaths his property to B, C, and D 'to be equally divided amongst all and each of them, if living at the time of my death, then amongst their surviving children.' No such children are in existence. In a suit against A's executor, the Court may declare whether B, C, and D took the property absolutely, or only for their lives, and it may also declare the interests of the children before their rights are vested.

(c). A covenants, that if he should at any time be entitled to property exceeding one lakh of rupees, he will settle it upon certain trusts. Before any such property accrues, or any persons entitled under the trusts are ascertained, he institutes a suit to obtain a declaration that the covenant is void for uncertainty. The Court may make the declaration.

(d). A alienates to B property in which A has merely a life-interest. The alienation is invalid as against C, who is entitled as reversioner. The Court may in a suit by C against A and B declare that C is so entitled.

(e). The widow of a sonless Hindu alienates part of the property of which she is in possession as such. The person presumptively entitled to possess the property if he survive her, may, in a suit against the alienee, obtain a declaration that the alienation was made without legal necessity, and was therefore void beyond the widow's lifetime.

(f). A Hindu widow in possession of property adopts a son to her deceased husband. The person presumptively entitled to possession of the property on her death without a son may, in a suit against the adopted son, obtain a declaration that the adoption was invalid.

(g). A is in possession of certain property. B, alleging that he is the owner of the property, requires A to deliver it to him. A may obtain a declaration of his right to hold the property.

(h). A bequeaths property to B for his life, with remainder to B's wife and her children, if any, by B, but if B die without any wife or children, to C. B has a putative wife, D, and children, but C denies that B and D were ever lawfully married. D and her children may, in B's lifetime, institute a suit against C and obtain therein a declaration that they are truly the wife and children of B.

**43.** A declaration made under this chapter is binding only on the parties to the suit, persons claiming through them

Effect of declaration. respectively, and, where any of the parties are trustees, on the persons for whom, if in existence at the date of the declaration, such parties would be trustees.

*Illustration.*

A, a Hindu, in a suit to which B, his alleged wife, and her mother, are defendants, seeks a declaration that his marriage was duly solemnized, and an order for the restitution of his conjugal rights. The Court makes the declaration and order. C, claiming that B is his wife, then sues A for the recovery of B. The declaration made in the former suit is not binding upon C.

## CHAPTER VII.

### OF THE APPOINTMENT OF RECEIVERS.

Appointment of receivers discretionary.

**44.** The appointment of a receiver pending a suit is a matter resting in the discretion of the Court.

Reference to Code of Civil Procedure

The mode and effect of his appointment, and his rights, powers, duties and liabilities, are regulated by the Code of Civil Procedure.

## CHAPTER VIII.

### OF THE ENFORCEMENT OF PUBLIC DUTIES.

**45.** Any of the High Courts of Judicature at Fort William, Madras,

Power to order public servants and others to do certain specific acts

Exemptions from such power.

and Bombay may make an order requiring any specific act to be done or forborne, within the local limits of its ordinary original civil jurisdiction, by any person holding a public office, whether of a permanent or a temporary nature, or by any corporation or inferior Court of Judicature : provided—

(a) that an application for such order be made by some person whose property, franchise, or personal right would be injured by the forbearing or doing (as the case may be) of the said specific act ;

(b) that such doing or forbearing is, under any law for the time being in force, clearly incumbent on such person or Court in his or its public character, or on such corporation in its corporate character ;

(c) that, in the opinion of the High Court, such doing or forbearing is consonant to right and justice ;

(d) that the applicant has no other specific and adequate legal remedy ; and

(e) that the remedy given by the order applied for will be complete.

Nothing in this section shall be deemed to authorize any High Court—

(f) to make any order binding on the Secretary of State for India in Council, on the Governor-General in Council, on the Governor of Madras in Council, on the Governor of Bombay in Council, or on the Lieutenant-Governor of Bengal ;

(g) to make any order on any other servant of the Crown, as such, merely to enforce the satisfaction of a claim upon the Crown ; or

(h) to make any order which is otherwise expressly excluded by any law for the time being in force.

**46.** Every application under Section 45 must be founded on an affidavit of the person injured, stating his right in the matter in question, his demand of justice and the denial thereof ; and the High Court may, in its discretion, make the order applied for absolute in the first instance, or refuse it, or grant a rule to show cause why the order applied for should not be made.

If, in the last case, the person, Court, or corporation complained of shows no sufficient cause, the High Court may first make an order in the alternative, either to do or forbear the act mentioned in the order, or to signify some reason to the contrary and make an answer thereto by such day as the High Court fixes in this behalf.

**47.** If the person, Court or corporation, to whom or to which such order is directed makes no answer, or makes an insufficient or a false answer, the High Court may then issue a peremptory order to do or forbear the act a' solutely.

**48.** Every order under this chapter shall be executed, and may be appealed from, as if it were a decree made in the exercise of the ordinary original civil jurisdiction of the High Court.

**49.** The costs of all applications and orders under this chapter shall be in the discretion of the High Court.

**50.** Neither the High Court nor any Judge thereof shall hereafter issue any writ of *mandamus*.

**51.** Each of the said High Courts shall, as soon as conveniently may be, frame rules to regulate the procedure under this chapter ; and until such rules are framed, the practice of such Court as to applications for and grants of writs of *mandamus* shall apply, so far as may be practicable, to applications and orders under this chapter.



### PART III.—OF PREVENTIVE RELIEF. CHAPTER IX.

#### OF INJUNCTIONS GENERALLY.

Preventive relief how granted

52. Preventive relief is granted at the discretion of the Court by injunction, temporary or perpetual.

53. Temporary injunctions are such as are to continue until a specified time, or until the further order of the Court. They may be granted at any period of a suit, and are regulated by the Code of Civil Procedure.

A perpetual injunction can only be granted by the decree made at the hearing and upon the merits of the suit: the defendant is thereby perpetually enjoined from the assertion of a right, or from the commission of an act, which would be contrary to the rights of the plaintiff.

#### CHAPTER X.

#### OF PERPETUAL INJUNCTIONS.

54. Subject to the other provisions contained in, or referred to by, this chapter, a perpetual injunction may be granted to prevent the breach of an obligation existing in favour of the applicant, whether expressly or by implication.

When such obligation arises from contract, the Court shall be guided by the rules and provisions contained in Chapter II of this Act.

When the defendant invades or threatens to invade the plaintiff's right to, or enjoyment of, property, the Court may grant a perpetual injunction in the following cases (namely):—

- (a) where the defendant is trustee of the property for the plaintiff;
- (b) where there exists no standard for ascertaining the actual damage caused, or likely to be caused, by the invasion;
- (c) where the invasion is such that pecuniary compensation would not afford adequate relief;
- (d) where it is probable that pecuniary compensation cannot be got for the invasion;
- (e) where the injunction is necessary to prevent a multiplicity of judicial proceedings.

EXPLANATION.—For the purpose of this section a trademark is property.

#### Illustrations.

(a). A lets certain land to B, and contracts not to dig sand or gravel thereout. A may sue for an injunction to restrain B from digging in violation of his contract.

(b). A trustee threatens a breach of trust. His co-trustees, if any, should, and the beneficial owners may, sue for an injunction to prevent the breach.

(c). The directors of a public company are about to pay a dividend out of capital or borrowed money. Any of the shareholders may sue for an injunction to restrain them.

(d). The directors of a fire and life-insurance company are about to engage in marine insurances. Any of the shareholders may sue for an injunction to restrain them.

(e). A, an executor, through misconduct or insolvency is bringing the property of the deceased into danger. The Court may grant an injunction to restrain him from getting in the assets.

(f). A, a trustee for B, is about to make an imprudent sale of a small part of the trust-property. B may sue for an injunction to restrain the sale, even though compensation in money would have afforded him adequate relief.

(g). A makes a settlement (not founded on marriage or other valuable consideration) of an estate on B and his children. A then contracts to sell the estate to C. B or any of his children may sue for an injunction to restrain the sale.

(h). In the course of A's employment as a vakil, certain papers belonging to his client, B, come into his possession. A threatens to make these papers public, or to communicate their contents to a stranger. B may sue for an injunction to restrain A from so doing.

(i). A is B's medical adviser. He demands money of B which B declines to pay. A then threatens to make known the effect of B's communications to him as a patient. This is contrary to A's duty, and B may sue for an injunction to restrain him from so doing.

(j). A, the owner of two adjoining houses, lets one to B and afterwards lets the other to C. A and C begin to make such alterations in the house let to C as will prevent the comfortable enjoyment of the house let to B. B may sue for an injunction to restrain them from so doing.

(k). A lets certain arable lands to B for purposes of husbandry, but without any express contract as to the mode of cultivation. Contrary to the mode of cultivation customary in the district, B threatens to sow the lands with seed injurious thereto and requiring many years to eradicate. A may sue for an injunction to restrain B from sowing the lands in contravention of his implied contract to use them in a husbandlike manner.

(l). A, B, and C are partners, the partnership being determinable at will. A threatens to do an act tending to the destruction of the partnership-property. B and C may, without seeking a dissolution of the partnership, sue for an injunction to restrain A from doing the act.

(m). A, a Hindu widow in possession of her deceased husband's property, commits destruction of the property without any cause sufficient to justify her in so doing. The heir-expectant may sue for an injunction to restrain her.

(n). A, B, and C are members of an undivided Hindu family. A cuts timber growing on the family-property, and threatens to destroy part of the family-house and to sell some of the family utensils. B and C may sue for an injunction to restrain him.

(o). A, the owner of certain houses in Calcutta, becomes insolvent. B buys them from the official assignee and enters into possession. A persists in trespassing on and damaging the houses and B is thereby compelled, at considerable expense, to employ men to protect the possession. B may sue for an injunction to restrain further acts of trespass.

(p). The inhabitants of a village claim a right of way over A's land. In a suit against several of them, A obtains a declaratory decree that his land is subject to no such right. Afterwards each of the other villagers sues A for obstructing his alleged right of way over the land. A may sue for an injunction to restrain them.

(q). A, in an administration-suit to which a creditor, B, is not a party, obtains a decree for the administration of C's assets. B proceeds against C's estate for his debt. A may sue for an injunction to restrain B.

(r). A and B are in possession of contiguous lands and of the mines underneath them. A works his mine so as to extend under B's mine and threatens to remove certain pillars which help to support B's mine. B may sue for an injunction to restrain him from so doing.

(s). A rings bells or makes some other unnecessary noise so near a house as to interfere materially and unreasonably with the physical comfort of the occupier, B. B may sue for an injunction restraining A from making the noise.

(t). A pollutes the air with smoke so as to interfere materially with the physical comfort of B and C, who carry on business in a neighbouring house. B and C may sue for an injunction to restrain the pollution.

(u). A infringes B's patent. If the Court is satisfied that the patent is valid and has been infringed, B may obtain an injunction to restrain the infringement.

(v). A pirates B's copyright. B may obtain an injunction to restrain the piracy, unless the work of which copyright is claimed is libellous or obscene.

(w). A improperly uses the trademark of B. B may obtain an injunction to restrain the user, provided that B's use of the trademark is honest.

(x). A, a tradesman, holds out B as his partner against the wish and without the authority of B. B may sue for an injunction to restrain A from so doing.

(y). A, a very eminent man, writes letters on family-topics to B. After the death of A and B, C, who is B's residuary legatee, proposes to make money by publishing A's letters. D, who is A's executor, has a property in the letters, and may sue for an injunction to restrain C from publishing them.

(s). A carries on a manufactory and B is his assistant. In the course of his business, A imparts to B a secret process of value. B afterwards demands money of A, threatening in case of refusal, to disclose the process to C, a rival manufacturer. A may sue for an injunction to restrain B from disclosing the process.

**55.** When, to prevent the breach of an obligation, it is necessary to compel the performance of certain acts which the Court is capable of enforcing, the Court may in its discretion grant an injunction to prevent the breach complained of, and also to compel performance of the requisite acts.

*Mandatory injunctions*

*Illustrations.*

(a) A, by new buildings, obstructs lights to the access and use of which B has acquired a right under the Indian Limitation Act, Part IV. B may obtain an injunction, not only to restrain A from going on with the buildings, but also to pull down so much of them as obstructs B's lights.

(b). A builds a house with eaves projecting over B's land. B may sue for an injunction to pull down so much of the eaves as so project.

(c) In the case put as illustration (v) to section 54, the Court may also order all written communications made by B, as patient, to A, as medical adviser, to be destroyed.

(d). In the case put as illustration (y) to section 54, the Court may also order A's letters to be destroyed.

(e) A threatens to publish statements concerning B which would be punishable under Chapter XXI of the Indian Penal Code. The Court may grant an injunction to restrain the publication, even though it may be shown not to be injurious to B's property.

(f). A, being B's medical adviser, threatens to publish B's written communications with him, showing that B has led an immoral life. B may obtain an injunction to restrain the publication.

(g) In the cases, put as illustrations (r) and (u) to section 54, and as illustrations (e) and (f) to this section, the Court may also order the copies produced by piracy, and the trademarks, statements, and communications, therein respectively mentioned, to be given up or destroyed.

*Injunction when refused.* **56.** An injunction cannot be granted—

(a) to stay a judicial proceeding pending at the institution of the suit in which the injunction is sought, unless such restraint is necessary to prevent a multiplicity of proceedings;

(b) to stay proceedings in a Court not subordinate to that from which the injunction is sought;

(c) to restrain persons from applying to any legislative body;

(d) to interfere with the public duties of any department of the Government of India or the Local Government, or with the sovereign acts of a Foreign Government;

(e) to stay proceedings in any criminal matter;

(f) to prevent the breach of a contract the performance of which would not be specifically enforced;

(g) to prevent, on the ground of nuisance, an act of which it is not reasonably clear that it will be a nuisance;

(h) to prevent a continuing breach in which the applicant has acquiesced;

(i) when equally efficacious relief can certainly be obtained by any other usual mode of proceeding, except in case of breach of trust;

(j) when the conduct of the applicant or his agents has been such as to disentitle him to the assistance of the Court;

(k) where the applicant has no personal interest in the matter.

*Illustrations.*

(a) A seeks an injunction to restrain his partner, B, from receiving the partnership-debts and effects. It appears that A had improperly possessed himself of the books of the firm, and refused B access to them. The Court will refuse the injunction.

(b) A manufactures and sells crucibles, designating them as "patent plumbago crucibles," though, in fact, they have never been patented. B pirates the designation. A cannot obtain an injunction to restrain the piracy.

(c) A sells an article called "Mexican Balm," stating that it is compounded of divers rare essences, and has sovereign medicinal qualities. B commences to sell a similar article to which he gives a name and description such as to lead people into the belief that they are buying A's Mexican Balm. A sues B for an injunction to restrain the sale. B shows that A's Mexican Balm consists of nothing but scented hog's lard. A's use of his description is not an honest one, and he cannot obtain an injunction.

57. Notwithstanding Section 56, clause (f), where a contract comprised an affirmative agreement to do a certain act, negative agreement coupled with a negative agreement, express or implied, not to do a certain act, the circumstance that the Court is unable to compel specific performance of the affirmative agreement, shall not preclude it from granting an injunction to perform the negative agreement; provided that the applicant has not failed to perform the contract so far as it is binding on him.

*Illustrations*

(a) A contracts to sell to B for Rs. 1,000 the good-will of a certain business unconnected with business-premises, and further agrees not to carry on that business in Calcutta. B pays A the Rs. 1,000 but A carries on the business in Calcutta. The Court cannot compel A to send his customers to B, but B may obtain an injunction restraining A from carrying on the business in Calcutta.

(b) A contracts to sell to B the good-will of a business, A then sets up a similar business close by B's shop, and solicits his old customers to deal with him. This is contrary to his implied contract, and B may obtain an injunction to restrain A from soliciting the customers, and from doing any act whereby their good-will may be withdrawn from B.

(c) A contracts with B to sing for twelve months at B's theatre and not to sing in public elsewhere. B cannot obtain specific performance of the contract to sing, but he is entitled to an injunction restraining A from singing at any other place of public entertainment.

(d) B contracts with A that he will serve him faithfully for twelve months as a clerk. A is not entitled to a decree for specific performance of this contract. But he is entitled to an injunction restraining B from serving a rival-house as clerk.

(e) A contracts with B that in consideration of Rs. 1,000 to be paid to him by B on a day fixed, he will not set up a certain business within a specified distance. B fails to pay the money. A cannot be restrained from carrying on the business within the specified distance.

## SCHEDULE

(See section 2)

## ACTS OF THE GOVERNOR-GENERAL IN COUNCIL.

Number and year.	Subject	Extent of repeal.
VIII of 1859.	Civil Procedure ... ..	Sections 15 and 192.
XIV of 1859	Limitation ... ..	Section 15.
XXIII of 1861	Civil Procedure .. .	Section 26
IX of 1872	Contract .. ...	In Section 28, the second clause of Exception 1.

**ACT No. II of 1877.***(Passed on the 14th February 1877).*

An Act to amend Act No. XIII of 1875.

Whereas it is expedient to define the expression 'High Court' as used in Act No. XIII of 1875 (*to amend the law relating to Probates and Letters of Administration*), Sections 2, 3 and 4; It is hereby enacted as follows:—

'High Court' defined in Act XIII of 1875, sections 3 and 4.

1. The expression 'High Court' in each of the said sections shall mean, and be deemed to have always meant—

(a) a High Court for the time being established under the twenty-fourth and twenty-fifth of Victoria, chapter 104:

(b) the Chief Court of the Punjab:

(c) the Court of the Recorder of Rangoon.

2. Nothing in this Act shall be deemed to affect the validity of any grant of probate or letters of administration with effect throughout the whole of British India heretofore made by any Court other than the Courts specified in section one.

Saving of certain grants of probate and administration.

**ACT No. III of 1877.***(Passed on the 14th February 1877).*

An Act for the Registration of Documents.

Preamble.

Whereas it is expedient to amend the law relating to the registration of documents; It is hereby enacted as follows:—

**PART I.—PRELIMINARY.**

Short title.

1. This Act may be called "The Indian Registration Act, 1877."

Local extent

It extends to the whole of British India, except such districts or tracts of country as the Local Government may, from time to time, with the previous sanction of the Governor-General in Council, exclude from its operation;

Commencement.

And it shall come into force on the first day of April 1877.

Repeal of enactments.

2. On and from that day Act No. VIII of 1871 shall be repealed.

But all appointments, notifications, rules, and orders made, and all districts and sub-districts formed, and all offices established, and all tables of fees prepared under such Act or any of the enactments thereby repealed, shall be deemed to have been respectively made, formed, established, and prepared under this Act, except in so far as such rules and orders may be inconsistent herewith.

References made in Acts passed before the first day of April 1877 to the said Act, or to any enactment thereby repealed, shall be read as if made to the corresponding section of this Act.

Interpretation-clause

3. In this Act, unless there be something repugnant in the subject or context—

“Lease” includes a counterpart, kabuliyat, an undertaking to cultivate or occupy, and an agreement to lease :

“Signature” and “signed” include and apply to the affixing of a mark :

“Immoveable property” includes land, buildings, hereditary allowances, rights to ways, lights, ferries, fisheries, or any other benefit to arise out of land, and things attached to the earth or permanently fastened to any thing which is attached to the earth, but not standing timber, growing crops, nor grass :

“Moveable property” includes standing timber, growing crops and grass, fruit upon and juice in trees, and property of every other description, except immoveable property :

“Book” includes a portion of a book, and also any number of sheets connected together with a view of forming a book or a portion of a book :

“Endorsement” and “endorsed” include and apply to an entry in writing by a registering officer on a rider or covering slip to any document tendered for registration under this Act :

“Minor” means a person who, according to the personal law to which he is subject, has not attained majority :

“Representative” includes the guardian of a minor and the committee or other legal curator of a lunatic or idiot :

“Addition” means the place of residence, and the profession, trade, rank, and title (if any) of a person described, and, in the case of a Native, his caste (if any) and his father’s name, or, where he is usually described as the son of his mother, then his mother’s name :

“District Court” includes the High Court in its ordinary original civil jurisdiction ; and

“District” and “sub-district” respectively mean a district and sub-district formed under this Act.

## PART II.—OF THE REGISTRATION ESTABLISHMENT.

4. The Local Government shall appoint an officer to be the Inspector-General of Registration for the territories subject to such Government,

or may, instead of making such appointment, direct that all or any of the powers and duties hereinafter conferred and imposed upon the Inspector-General shall be exercised and performed by such officer or officers and within such local limits, as the Local Government from time to time appoints in this behalf.

The Governor of Bombay in Council may also, with the previous consent of the Governor-General in Council, appoint an officer to be Branch Inspector-General of Sindh, who shall have all the powers of an Inspector-General under this Act other than the power to frame rules hereinafter conferred.

Any Inspector-General or the Branch Inspector-General of Sindh may hold simultaneously any other office under Government.

5. For the purposes of this Act, the Local Government shall form districts and sub-districts, and shall prescribe, and may from time to time alter, the limits of such districts and sub-districts.

The districts and sub-districts formed under this section, together with the limits thereof, and every alteration of such limits, shall be notified in the local official Gazette.

Every such alteration shall take effect on such day after the date of the notification as is therein mentioned.

NOTE—See Note (a) at the end of this Act

6. The Local Government may appoint such persons, whether public Registrars and sub-registrars officers or not, as it thinks proper, to be registrars of the several districts, and to be sub-registrars of the several sub-districts, formed as aforesaid, respectively.

NOTE.—See Note (b) at the end of the Act

7. The Local Government shall establish in every district an office to be styled the office of the registrar, and in every sub-district an office or offices to be styled the office of the sub-registrar, or the offices of the joint sub-registrars, and may amalgamate with any office of a registrar any office of a sub-registrar subordinate to such registrar,

and may authorize any sub-registrar whose office has been so amalgamated to exercise and perform, in addition to his own powers and duties, all or any of the powers and duties of the registrar to whom he is subordinate :

Provided that no such authorization shall enable a sub-registrar to hear an appeal against an order passed by himself under this Act.

NOTE—See Note (b) at the end of the Act.

8. The Local Government may also appoint officers to be called inspectors of registration offices of registration offices, and may from time to time prescribe the duties of such officers. Every such inspector shall be subordinate to the Inspector-General.

9. Every military cantonment where there is a Cantonment Magistrate may (if the Local Government so directs) be for the purposes of this Act, a sub-district or a district, and such Magistrate shall be the sub-registrar or the registrar of such sub-district or district, as the case may be.

Whenever the Governor-General in Council declares any military cantonment beyond the limits of British India to be a sub-district or a district for the purposes of this Act, he shall also declare, in the case of a sub-district, what authorities shall be registrar of the district and Inspector-General, and in the case of a district, what authority shall be Inspector-General with reference to such cantonment and the sub-registrar or registrar thereof.

10. Whenever any registrar other than the registrar of a district, including a presidency town, is absent otherwise than on duty in his district, or when his office is temporarily vacant,

any person whom the Inspector-General appoints in this behalf, or, in default of such appointment, the Judge of the District Court within the local limits of whose jurisdiction the registrar's office is situate,

shall be the registrar during such absence or until the Local Government fills up the vacancy.

Whenever the registrar of a district, including a presidency town, is absent otherwise than on duty in his district, or when his office is temporarily vacant,

any person whom the Inspector-General appoints in this behalf shall be the registrar during such absence, or until the Local Government fills up the vacancy.

11. Whenever any registrar is absent from his office on duty in his district, he may appoint any sub-registrar or other person in his district to perform, during such absence, all the duties of a registrar, except those mentioned in Sections 68 and 72

Absence of registrar on duty in his district

12. Whenever any sub-registrar is absent, or when his office is temporarily vacant, any person whom the registrar of the district appoints in this behalf shall be sub-registrar during such absence, or until the Local Government fills up the vacancy.

Absence of sub-registrar or vacancy in his office

13. All appointments made under Section 10, Section 11, or Section 12 shall be reported to the Local Government by the Inspector-General. Such report shall be either special or general, as the Local Government directs.

Appointments under Section 10, 11 or 12 to be reported to Government

The Local Government may suspend, remove, or dismiss any person appointed under the provisions of this Act, and appoint another person in his stead.

Suspension, removal and dismissal of officers

14. Subject to the approval of the Governor-General in Council, the Local Government may assign such salaries as such Government from time to time deems proper to the registering officers appointed under this Act, or provide for their remuneration by fees, or partly by fees and partly by salaries

Remuneration, and establishments of registering officers

The Local Government may allow proper establishments for the several offices under this Act

NOTE.—The subject of the remuneration of Tahsildars, who perform the duties of Sub-registrars of Assurances under the Indian Registration Act (VIII) of 1871, has been under the consideration of the Honble the Lieutenant Governor

2. At present Tahsildars, who are registering officers are allowed half the fees on the documents registered by them on the first Rs. 50 of their collections in a month, and one quarter of any collections in excess of Rs. 50

3. Experience has shown that the system of remunerating Tahsildar Sub Registrars by a share of the fees collected is highly inconvenient as difficulties are thereby placed in the way of transferring Tahsildars from one tahsil to another according to the requirements of the administration—such transfers being in many cases impossible under present arrangements without inflicting upon the official transferred a pecuniary loss which he does not deserve, or giving him an increase of income beyond his merits

4. It is accordingly resolved by the Honble the Lieutenant Governor, with the approval of the Government of India, that on and after the commencement of the official year 1874-75 and until further orders the present system whereby Tahsildar Sub Registrars are remunerated by a share of the fees shall be abolished. From the date above named the whole amount of the fees collected in tahsil sub registry offices will be credited to the Provincial Service Funds, and an allowance of 10 per cent on their salaries will be made to all Tahsildars in consideration of their performing registry duties when so required. This extra allowance will be charged to Provincial Funds, and will not be taken into consideration in calculating pensions

5. Tahsildars will draw the above allowance of 10 per cent on their salaries, whether present in, or absent from, head-quarters, in the latter case the Naib Tahsildar should, if necessary be appointed to officiate for him in which case the Naib-Tahsildar will receive 20 per cent on his salary during the period he officiates for the Tahsildar. District officers will of course take care that this liberal arrangement whereby the Tahsildar is secured a continuance of his allowance when absent from head-quarters is not abused—(No. 307, dated 19th January 1874—*Punjab Gazette* of 22nd idem, page 25)



15. The several registrars and sub-registrars shall use a seal bearing the following inscription in English and in such other language as the Local Government directs:—"The seal of the registrar (or of the sub-registrar) of."

Seals of registering officers.

16. The Local Government shall provide for the office of every registering officer the books necessary for the purposes of this Act.

Register-books.

The books so provided shall contain the forms from time to time prescribed by the Inspector-General, with the sanction of the Local Government, and the pages of such books shall be consecutively numbered in print, and the number of pages in each book shall be certified on the title-page by the officer by whom such books are issued.

Forms.

The Local Government shall supply the office of every registrar with a fire-proof box, and shall in each district make suitable provisions for the safe custody of the records connected with the registration of documents in such district.

Fire-proof boxes

### PART III.—OF REGISTRABLE DOCUMENTS.

17. The documents next hereinafter mentioned shall be registered, if the property to which they relate is situate in a district in which, and if they have been executed on or after the date on which Act No. XVI of 1864, or Act No. XX of 1866, or Act No. VIII of 1871, or this Act, came or comes into force (that is to say),—

Documents of which registration is compulsory

(a) Instruments of gift of immoveable property :

(b) Other non-testamentary instruments which purport or operate to create, declare, assign, limit, or extinguish, whether in present or in future, any right, title, or interest, whether vested or contingent, of the value of one hundred rupees and upwards, to or in immoveable property :

(c) Non-testamentary instruments which acknowledge the receipt or payment of any consideration on account of the creation, declaration, assignment, limitation, or extinction of any such right, title, or interest ; and

(d) Leases of immoveable property from year to year, or for any term exceeding one year, or reserving a yearly rent :

Provided that the Local Government may, by order published in the official Gazette, exempt from the operation of the former part of this section any leases executed in any district, or part of a district, the terms granted by which do not exceed five years, and the annual rents reserved by which do not exceed fifty rupees.

NOTE.—Under the authority conferred by the proviso to clause (d), Section 17, of the Indian Registration Act, 1877, the Lieutenant-Governor is pleased to exempt from the operation of clause (d) of that section (that is from compulsory registration) agricultural leases executed in any district of the Punjab, the terms granted by which do not exceed five years and the annual rents reserved by which do not exceed Rs 50 (*Punjab Government Notification No. 29, dated 4th July 1888, Punjab Gazette of 5th idem, Part I, p 475*)

Nothing in clauses (b) and (c) of this section applies to (e) any composition-deed,  
Exception of composition position-deed,  
deeds ;

(f) any instrument relating to shares in a joint-stock company, not-  
and of transfers of shares withstanding that the assets of such company con-  
and debentures in land sist in whole or in part of immoveable property, or  
companies

(ff) any debenture issued by any such company and not creating,  
declaring, assigning, limiting, or extinguishing any right, title or interest to  
or in immoveable property except in so far as it entitles the holder to the  
security afforded by a registered instrument whereby the company has  
mortgaged, conveyed or otherwise transferred the whole or part of its  
immoveable property or any interest therein to trustees upon trust for the  
benefit of the holders of such debentures, or

NOTE.—The above clause has been added by Act VII of 1886, Section 2

(g) any endorsement upon or transfer of any debenture issued by  
any such company,

(h) any document not itself creating, declaring, assigning, limiting  
Documents merely crea- or extinguishing any right, title or interest of the  
ting right to obtain other value of one hundred rupees and upwards to or in  
documents immoveable property, but merely creating a right  
to obtain another document which will, when executed, create, declare,  
assign, limit, or extinguish any such right, title or interest ;

(i) decrees and orders of Courts and awards ;

(j) grants of immoveable property by Government ;

(k) instruments of partition made by revenue officers ;

(l) orders granting loans and instruments of collateral security  
granted under the Land Improvement Loans Act, 1883.

NOTE.—Clause (l) is as amended by Act XIX of 1883, Section 12

(m) orders granting loans under the Agriculturists' Loans Act, 1884,  
and instruments for securing the repayment of loans made under that Act ;

(n) any endorsement on a mortgage-deed acknowledging the payment  
of the whole or any part of the mortgage-money, and any other receipt for  
payment of money due under a mortgage when the receipt does not purport  
to extinguish the mortgage ;

NOTE.—Clauses (m) and (n) have been added by Act VII of 1886

(o) a certificate of sale granted to the purchaser of any property sold  
by public auction by a civil or revenue officer.

NOTE.—Clause (o) has been added by Act VII of 1888.

Authorities to adopt a son, executed after the first day of January  
1872, and not conferred by a will, shall also be  
registered.

Documents of which ro- 18. Any of the documents next hereinafter  
gistration is optional mentioned may be registered under this Act (that  
is to say),

(a) Instruments (other than instruments of gift and wills) which  
purport or operate to create, declare, assign, limit or extinguish, whether  
in present or in future, any right, title, or interest, whether vested or con-  
tingent, of a value less than one hundred rupees, to or in immoveable  
property :

(b) Instruments acknowledging the receipt or payment of any con-  
sideration on account of the creation, declaration, assignment, limitation  
or extinction of any such right, title or interest :

(c) Leases of immoveable property for any term not exceeding one year, and leases exempted under Section 17 :

(d) Instruments (other than wills) which purport or operate to create, declare, assign, limit or extinguish any right, title or interest to or in moveable property :

(e) Wills :

(f) All other documents not required by Section 17 to be registered.

**19.** If any document duly presented for registration be in a language which the registering officer does not understand, and which is not commonly used in the district, he shall refuse to register the document, unless it be accompanied by a true translation into a language commonly used in the district and also by a true copy.

**20.** The registering officer may, in his discretion, refuse to accept for registration any document in which any interlineation, blank, erasure or alteration appears, unless the persons executing the document attest with their signatures or initials such interlineation, blank, erasure or alteration. If he register such document, he shall, at the time of registering the same, make a note in the register of such interlineation, blank, erasure or alteration.

**21.** (a) No non-testamentary document relating to immoveable property shall be accepted for registration unless it contains a description of such property sufficient to identify the same.

(b) Houses in towns shall be described as situate on the north or other side of the street or road (mentioning it) to which they front, and by their existing and former occupancies, and by their numbers, if the houses in such street or road are numbered. Other houses and lands shall be described by their name, if any, and as being in the territorial division in which they are situate, and by their superficial contents, the roads and other properties on which they abut, and their existing occupancies, and also, whenever it is practicable, by reference to a Government map or survey.

(c) No non-testamentary document containing a map or plan of any property comprised therein shall be accepted for registration unless it be accompanied by a true copy of the map or plan, or, in case such property is situate in several districts, by such number of true copies of the map or plan as are equal to the number of such districts.

**22.** Failure to comply with the provisions contained in Section 21, clause (b), shall not disentitle a document to be registered if the description of the property to which it relates is sufficient to identify such property.

#### PART IV.—OF THE TIME OF PRESENTATION.

**23.** Subject to the provisions contained in Sections 24, 25 and 26, no document other than a will, shall be accepted for registration unless presented for that purpose to the proper officer within four months from the date of its execution,

or, in the case of a copy of a decree or order, within four months from the day on which the decree or order was made, or, where it is appealable, within four months from the day on which it becomes final :

Provided that, where there are several persons executing a document at different times, such document may be presented for registration and re-registration within four months from the date of each execution.

**24.** If, owing to urgent necessity or unavoidable accident, any document executed, or copy of a decree or order made, in British India is not presented for registration till after the expiration of the time hereinbefore prescribed in that behalf, the registrar, in cases where the delay in presentation does not exceed four months, may direct that on payment of a fine not exceeding ten times the amount of the proper registration fee, such document shall be accepted for registration.

Provision where delay in presentation is unavoidable

Any application for such direction may be lodged with a sub-registrar, who shall forthwith forward it to the registrar to whom he is subordinate.

**25.** When a document purporting to have been executed by all or any of the parties out of British India is not presented for registration till after the expiration of the time hereinbefore prescribed in that behalf, the registering officer, if satisfied,

(a) that the instrument was so executed, and  
(b) that it has been presented for registration within four months after its arrival in British India,

may, on payment of the proper registration fee, accept such document for registration.

**26.** Whenever a registration-office is closed on the last day of any period provided in this Act for the presentation of any document, such last day shall, for the purposes of this Act, be deemed to be the day on which the office re-opens.

Provision where office is closed on last day of period for presentation

Wills may be presented or deposited at any time.

**27.** A will may at any time be presented for registration or deposited in manner hereinafter provided.

#### PART V.—OF THE PLACE OF REGISTRATION.

**28.** Save as in this Part otherwise provided, every document mentioned in Section 17, clauses (a), (b), (c) and (d), and Section 18, clauses (a), (b) and (c), shall be presented for registration in the office of a sub-registrar within whose sub-district the whole or some portion of the property to which such document relates is situate.

Place for registering documents relating to land

**29.** Every document other than a document referred to in Section 28, and a copy of a decree or order, may be presented for registration either in the office of the sub-registrar in whose sub-district the document was executed, or in the office of any other sub-registrar under the Local Government at which all the persons executing and claiming under the document desire the same to be registered.

Place for registering other documents

A copy of a decree or order may be presented for registration in the office of the sub-registrar in whose sub-district the original decree or order was made, or, where the decree or order does not affect immoveable property, in the office of any other sub-registrar under the Local Government at which all the persons claiming under the decree or order desire the same to be registered.

**30.** (a). Any registrar may in his discretion receive and register any document which might be registered by any sub-registrar subordinate to him.

Registration by registrar.

(b). The registrar of a district including a presidency town and the registrar of the Lahore district may receive and register any document referred to in Section 28 without regard to the situation in any part of British India of the property to which the document relates.

Registration by registrar at presidency town.

**31.** In ordinary cases the registration or deposit of documents under this Act shall be made only at the office of the officer authorized to accept the same for registration or deposit.

Registration or acceptance for deposit at private residence.

But such officer may, on special cause being shown, attend at the residence of any person desiring to present a document for registration or to deposit a will, and accept for registration or deposit such document or will.

#### PART VI.—OF PRESENTING DOCUMENTS FOR REGISTRATION.

**32.** Except in the cases mentioned in Section 31 and Section 89, every document to be registered under this Act, whether such registration be compulsory or optional, shall be presented at the proper registration office,

Persons to present documents for registration

by some person executing or claiming under the same, or, in the case of a copy of a decree or order, claiming under the decree or order,

or by the representative or assign of such person,

or by the agent of such person, representative or assign, duly authorized by power-of-attorney executed and authenticated in manner hereinafter mentioned.

Powers-of-attorney recognizable for purposes of Section 32.

**33.** For the purposes of Section 32, the powers-of-attorney next hereinafter mentioned shall alone be recognized (that is to say),—

(a) if the principal at the time of executing the power-of-attorney resides in any part of British India in which this Act is for the time being in force, a power-of-attorney executed before and authenticated by the registrar or sub-registrar within whose district or sub-district the principal resides :

(b) if the principal at the time aforesaid resides in any other part of British India, a power-of-attorney executed before and authenticated by any Magistrate :

(c) if the principal at the time aforesaid does not reside in British India, a power-of-attorney executed before and authenticated by a Notary Public, or any Court, Judge, Magistrate, British Consul or Vice-Consul, or representative of Her Majesty or of the Government of India :

Provided that the following persons shall not be required to attend at any registration-office or Court for the purpose of executing any such power-of-attorney as is mentioned in clauses (a) and (b) of this section:—

persons who by reason of bodily infirmity are unable without risk or serious inconvenience so to attend ;

persons who are in jail under civil or criminal process ; and

persons exempt by law from personal appearance in Court.

In every such case the registrar or sub-registrar or Magistrate (as the case may be), if satisfied that the power-of-attorney has been voluntarily executed by the person purporting to be the principal, may attest the same without requiring his personal attendance at the office or Court aforesaid.

To obtain evidence as to the voluntary nature of the execution, the registrar or sub-registrar or Magistrate may either himself go to the house of the person purporting to be the principal, or to the jail in which he is confined, and examine him, or issue a commission for his examination.

Any power-of-attorney mentioned in this section may be proved by the production of it without further proof, when it purports on the face of it to have been executed before and authenticated by the person or Court hereinbefore mentioned in that behalf.

34. Subject to the provisions contained in this Part and in Sections 41, 43, 45, 69, 75, 77, 88 and 89, no document Enquiry before registra- tion by registering officer shall be registered under this Act, unless the persons executing such document, or their representatives, assigns, or agents authorized as aforesaid, appear before the registering officer within the time allowed for presentation under Sections 23, 24, 25 and 26 :

Provided that if, owing to urgent necessity or unavoidable accident, all such persons do not so appear, the registrar, in cases where the delay in appearing does not exceed four months, may direct that on payment of a fine not exceeding ten times the amount of the proper registration-fee, in addition to the fine, if any, payable under Section 24, the document may be registered.

Such appearances may be simultaneous or at different times.

The registering officer shall thereupon—

(a) enquire whether or not such document was executed by the persons by whom it purports to have been executed,

(b) satisfy himself as to the identity of the persons appearing before him and alleging that they have executed the document, and

(c) in the case of any person appearing as a representative, assign, or agent, satisfy himself of the right of such person so to appear.

Any application for a direction under the proviso in this section may be lodged with a sub-registrar, who shall forthwith forward it to the registrar to whom he is subordinate.

Nothing in this section applies to copies of decrees or orders.

35. If all the persons executing the document appear personally before the registering officer and are personally known to him, or if he be otherwise satisfied that they are the persons they represent themselves to be, and if they all admit the execution of the document ;

Procedure on admission of execution.

or, in the case of any person appearing by a representative, assign, or agent, if such representative, assign, or agent admits the execution ;

or, if the person executing the document is dead, and his representative or assign appears before the registering officer, and admits the execution,

the registering officer shall register the document as directed in Sections 58 to 61 inclusive.

The registering officer may, in order to satisfy himself that the persons appearing before him are the persons they represent themselves to be, or for any other purpose contemplated by this Act, examine any one present in his office.

Procedure on denial of execution, &c

If any of the persons by whom the document purports to be executed deny its execution,

or if any such person appears to the registering officer to be a minor, an idiot, or a lunatic,

or if any person by whom the document purports to be executed is dead, and his representative or assign denies its execution,

the registering officer shall refuse to register the document as to the person so denying, appearing, or dead : Provided that, where such officer is a registrar, he shall follow the procedure prescribed in Part XII of this Act.

NOTE.—As amended by Act XII of 1879.

## PART VII.—OF ENFORCING THE APPEARANCE OF EXECUTANTS AND WITNESSES.

**36.** If any person presenting any document for registration, or claiming under any document which is capable of being so presented, desires the appearance of any person whose presence or testimony is necessary for the registration of such document, the registering officer may, in his discretion, call upon such officer or Court as the Local Government from time to time directs in this behalf to issue a summons requiring him to appear at the registration office, either in person or by duly authorized agent, as in the summons may be mentioned, and at a time named therein.

NOTE.—The Lieutenant-Governor has declared under Section 36, that in cases where it is necessary to issue a summons for the appearance of any person at a Registration Office, the Registering Officer shall apply to the Deputy Commissioner of the district in which the person whose presence is sought is residing for the issue of such summons.—(Notification No 1016, dated 17th July 1871—*Punjab Gazette of 20th idem*, p. 895)

**37.** The officer or Court, upon receipt of the peon's fee payable in such cases, shall issue the summons accordingly, and cause it to be served upon the person whose appearance is so required.

Persons exempt from appearance at registration office.

**38.** A person who by reason of bodily infirmity is unable without risk or serious inconvenience to appear at the registration office,

a person in jail under civil or criminal process,

and persons exempt by law from personal appearance in Court, and who would, but for the provision next hereinafter contained, be required to appear in person at the registration office,

shall not be required so to appear.

In every such case, the registering officer shall either himself go to the house of such person, or to the jail in which he is confined, and examine him, or issue a commission for his examination.

39. The law in force for the time being as to summonses, commissions, and compelling the attendance of witnesses, and for their remuneration in suits before Civil Courts, shall, save as aforesaid, and *mutatis mutandis*, apply to any summons or commission issued, and any person summoned to appear under the provisions of this Act.

#### PART VIII.—OF PRESENTING WILLS AND AUTHORITIES TO ADOPT.

Persons entitled to present wills and authorities to adopt.

40. The testator, or after his death any person claiming as executor or otherwise under a will, may present it to any registrar or sub-registrar for registration,

and the donor, or after his death the donee, of any authority to adopt, or the adoptive son, may present it to any registrar or sub-registrar for registration.

41. A will or an authority to adopt, presented for registration by the testator or donor, may be registered in the same manner as any other document.

A will or authority to adopt, presented for registration by any other person entitled to present it, shall be registered if the registering officer is satisfied—

(a) that the will or authority was executed by the testator or donor, as the case may be ;

(b) that the testator or donor is dead ; and

(c) that the person presenting the will or authority is, under Section 40, entitled to present the same.

#### PART IX.—OF THE DEPOSIT OF WILLS.

42. Any testator may, either personally or by duly authorized agent, deposit with any registrar his will in a sealed cover superscribed with the name of the testator and that of his agent (if any) and with a statement of the nature of the document.

43. On receiving such cover, the registrar, if satisfied that the person presenting the same for deposit is the testator or his agent, shall transcribe in his Register-Book No. 5 the superscription aforesaid, and shall note in the same book and on the said cover the year, month, day, and hour of such presentation and receipt, and the names of any persons who may testify to the identity of the testator or his agent, and any legible inscription which may be on the seal of the cover.

The registrar shall then place and retain the sealed cover in his fire-proof box.

44. If the testator who has deposited such cover wishes to withdraw it, he may apply either personally or by duly authorized agent to the registrar who holds it in deposit, and such registrar, if satisfied that the applicant is actually the testator or his agent, shall deliver the cover accordingly.



**45.** If, on the death of a testator who has deposited a sealed cover under Section 42, application be made to the registrar who holds it in deposit to open the same, and if the registrar is satisfied that the testator is dead, he shall, in the applicant's presence, open the cover, and, at the applicant's expense, cause the contents thereof to be copied into his Book No. 3.

**Re-deposit** When such copy has been made, the registrar shall re-deposit the original will.

**46.** Nothing hereinbefore contained shall affect the provisions of the Indian Succession Act, Section 259, or the power of any Court by order to compel the production of any will. But whenever any such order is made, the registrar shall, unless the will has been already copied under Section 45, open the cover and cause the will to be copied into his Book No. 3, and make a note on such copy that the original has been removed into Court in pursuance of the order aforesaid.

#### PART X.—OF THE EFFECTS OF REGISTRATION AND NON-REGISTRATION.

**47.** A registered document shall operate from the time from which it would have commenced to operate if no registration thereof had been required or made, and not from the time of its registration.

**48.** All non-testamentary documents duly registered under this Act, and relating to any property whether moveable or immoveable, shall take effect against any oral agreement or declaration relating to such property, unless where the agreement or declaration has been accompanied or followed by delivery of possession.

**49.** No document required by Section 17 to be registered, shall affect any immoveable property comprised therein,

or confer any power to adopt,

or be received as evidence of any transaction affecting such property or conferring such power,

unless it has been registered in accordance with the provisions of this Act.

**50.** Every document of the kinds mentioned in clauses (a), (b), (c), and (d) of Section 17, and clauses (a) and (b) of Section 18, shall, if duly registered, take effect, as regards the property comprised therein, against every unregistered document relating to the same property, and not being a decree or order, whether such unregistered document be of the same nature as the registered document or not.

Nothing in the former part of this section applies to leases exempted under the proviso in Section 17, or to the documents mentioned in clauses (e), (f), (ff), (g), (h), (i), (j), (k), (l), (m), (n) and (o) of the same section.

*Explanation.*—In cases where Act No. XVI of 1864 or Act No. XX of 1866 was in force in the place and at the time in and at which such unregistered document was executed, "unregistered" means not registered

according to such Act, and, where the document is executed after the first day of July 1871, not registered under Act No. VIII of 1871 or this Act.

NOTE.— The above section has been amended by Act VII of 1886 and Act VII of 1888.

#### PART XI.—OF THE DUTIES AND POWERS OF REGISTERING OFFICERS.

##### (A). *As to the Register-Books and Indexes.*

51. The following books shall be kept in the several offices hereinafter named (that is to say)—

Register-books to be kept in the several offices.

In all registration offices—

Book 1, "Register of non-testamentary documents relating to immoveable property ;"

Book 2, "Record of reasons for refusal to register ;"

Book 3, "Register of wills and authorities to adopt ;" and

Book 4, "Miscellaneous register."

In the offices of registrars—

Book 5, "Register of deposits of wills."

In Book 1 shall be entered or filed all documents or memoranda registered under Sections 17, 18, and 89\* which relate to immoveable property, and are not wills.

In Book 4 shall be entered all documents registered under clauses (d) and (f) of Section 18, which do not relate to immoveable property.

Nothing in the former part of this section shall be deemed to require more than one set of books where the office of the registrar has been amalgamated with the office of a sub-registrar.

##### 52. The day, hour, and place of presentation, and the signature of every

Endorsements on documents presented.

Receipt for document.

Documents admitted to registration to be copied.

person presenting a document for registration, shall be endorsed on every such document at the time of presenting it: a receipt for such document shall be given by the registering officer to the person presenting the same; and, subject to the provisions contained in Section 62, every document admitted to registration shall without unnecessary delay be copied in the book appropriated therefor according to the order of its admission.

And all such books shall be authenticated at such intervals and in such manner as is from time to time prescribed by the Inspector-General.

##### 53. All entries in each book shall be numbered in a consecutive

Entries to be numbered consecutively.

beginning of each year.

series, which shall commence and terminate with the year, a fresh series being commenced at the

##### 54. In every office in which any of the books hereinbefore mentioned

Current indexes and entries therein.

are kept, there shall be prepared current indexes of the contents of such books; and every entry in such indexes shall be made, so far as practicable, immediately after the registering officer has copied, or filed a memorandum of, the document to which it relates.

\* The figures 89 have been substituted for 87 by S. 105 of Act XII of 1879.

Indexes to be made by  
registering officers.

55. Four such indexes shall be made in all registration offices, and shall be named, respectively, Index No. I, Index No. II, Index No. III, and Index No. IV.

Index No. I shall contain the names and additions of all persons executing and of all persons claiming under every document entered or memorandum filed in Book No. 1.

Index No. II shall contain such particulars mentioned in Section 21 relating to every such document and memorandum as the Inspector-General from time to time directs in that behalf.

Index No. III shall contain the names and additions of all persons executing every will and authority entered in Book No. 3, and of the executors and persons respectively appointed thereunder, and after the death of the testator or the donor (but not before) the names and additions of all persons claiming under the same.

Index No. IV shall contain the names and additions of all persons executing and of all persons claiming under any document entered in Book No. 4.

Indexes Nos. I, II, III and IV shall contain such other particulars, and Extra particulars in indexes shall be prepared in such form, as the Inspector-General from time to time directs.

56. Every sub-registrar shall send to the registrar to whom he is subordinate, at such intervals as the Inspector-General from time to time directs, a copy of all entries made by such sub-registrar, during the last of such intervals, in Indexes Nos. I, II and III.

Copy of entries in Indexes Nos. I, II and III to be sent by sub-registrar to registrar.

Such copy to be filed by registrar.

Every registrar receiving such copy shall file it in his office.

57. Subject to the previous payment of the fees payable in that behalf, the Books Nos. 1 and 2, and the indexes relating to Book No. 1, shall be at all times open to inspection by any person applying to inspect the same; and, subject to the provisions of Section 62, copies of entries in such books shall be given to all persons applying for such copies.

Registering officers to allow inspection of certain books and indexes, and to give certified copies of entries.

Subject to the same provisions, copies of entries in Book No. 3, and in the index relating thereto, shall be given to the persons executing the documents to which such entries relate, or to their agents, and, after the death of the executants (but not before), to any person applying for such copies.

Subject to the same provisions, copies of entries in Book No. 4, and in the index relating thereto, shall be given to any person executing or claiming under the documents to which such entries respectively refer, or to his agent or representative. The requisite search under this section for entries in Books Nos. 3 and 4 shall be made only by the registering officer.

All copies given under this section shall be signed and sealed by the registering officer, and shall be admissible for the purpose of proving the contents of the original documents.

*(B). As to the Procedure on admitting to Registration.*

**58.** On every document admitted to registration, other than a copy of a decree or order, or a copy sent to a registering officer under Section 89, there shall be endorsed from time to time the following particulars, that is to say :—

(a) the signature and addition of every person admitting the execution of the document; and, if such execution has been admitted by the representative, assign, or agent of any person, the signature and addition of such representative, assign, or agent:

(b) the signature and addition of every person examined in reference to such document under any of the provisions of this Act; and

(c) any payment of money or delivery of goods made in the presence of the registering officer in reference to the execution of the document, and any admission of receipt of consideration, in whole or in part, made in his presence, in reference to such execution.

If any person admitting the execution of a document refuses to endorse the same, the registering officer shall nevertheless register it, but shall at the same time endorse a note of such refusal.

NOTE.—The above section is as amended by Act VII of 1886, Section 3

**59.** The registering officer shall affix the date and his signature to all endorsements made under Sections 52 and 58, relating to the same document, and made in his presence on the same day.

**60.** After such of the provisions of Sections 34, 35, 58 and 59 as apply to any document presented for registration have been complied with, the registering officer shall endorse thereon a certificate containing the word “registered,” together with the number and page of the book in which the document has been copied.

Such certificate shall be signed, sealed, and dated by the registering officer, and shall then be admissible for the purpose of proving that the document has been duly registered in manner provided by this Act, and that the facts mentioned in the endorsements referred to in Section 59 have occurred as therein mentioned.

**61.** The endorsements and certificate referred to and mentioned in Sections 59 and 60 shall thereupon be copied into the margin of the Register Book, and the copy of the map or plan (if any) mentioned in Section 21 shall be filed in Book No. 1.

The registration of the document shall thereupon be deemed complete, and the document shall then be returned to the person who presented the same for registration, or to such other person (if any) as he has nominated in writing in that behalf on the receipt mentioned in Section 52.

**62.** When a document is presented for registration under Section 19, the translation shall be transcribed in the register of documents of the nature of the original, and, together with the copy referred to in Section 19, shall be filed in the registration office.

The endorsements and certificate respectively mentioned in Sections 59 and 60 shall be made on the original, and for the purpose of making the copies and memoranda required by Sections 57, 64, 65 and 66, the translation shall be treated as if it were the original.

**63.** Every registering officer may at his discretion administer an oath  
Power to administer oaths to any person examined by him under the provisions of this Act.

He may also at his discretion record a note of the substance of the  
Record of substance of statements. statement made by each such person, and such statement shall be read over, or (if made in a language with which such person is not acquainted) interpreted to him in a language with which he is acquainted, and if he admits the correctness of such note, it shall be signed by the registering officer.

Every such note so signed shall be admissible for the purpose of proving that the statements therein recorded were made by the persons and under the circumstances therein stated.

*(C). Special Duties of Sub-Registrar.*

**64.** Every sub-registrar on registering a non-testamentary document  
Procedure on registration of document relating to land situate in several sub-districts relating to immoveable property not wholly situate in his own sub-district, shall make a memorandum thereof and of the endorsement and certificate (if any) thereon, and send the same to every other sub-registrar subordinate to the same registrar as himself in whose sub-district any part of such property is situate, and such sub-registrar shall file the memorandum in his Book No. 1.

**65.** Every sub-registrar on registering a non-testamentary document  
Procedure where document relates to land situate in several districts. relating to immoveable property situate in more districts than one, shall also forward a copy thereof and of the endorsement and certificate (if any) thereon, together with the copy of the map or plan (if any) mentioned in Section 21, to the registrar of every district in which any part of such property is situate other than the district in which his own sub-district is situate.

The registrar, on receiving the same, shall file in his Book No. 1 the copy of the document and the copy of the map or plan (if any), and shall forward a memorandum of the document to each of the sub-registrars subordinate to him within whose sub-district any part of such property is situate; and every sub-registrar receiving such memorandum shall file it in his Book No. 1.

*(D). Special Duties of Registrar.*

**66.** On registering any non-testamentary document relating to immoveable property, the registrar shall forward a memorandum of such document to each sub-registrar subordinate to himself in whose sub-district any part of the property is situate.  
Procedure on registering documents relating to land.

He shall also forward a copy of such document, together with a copy of the map or plan (if any) mentioned in Section 21, to every other registrar in whose district any part of such property is situate.

Such registrar on receiving any such copy shall file it in his Book No 1, and shall also send a memorandum of the copy to each of the sub-registrars subordinate to him within whose sub-district any part of the property is situate.

Every sub-registrar receiving any memorandum under this section shall file it in his Book No. 1.

**67.** On any document being registered under Section 30, clause (b), a copy of such document and of the endorsements and certificate thereon shall be forwarded to every registrar within whose district any part of the property to which the instrument relates is situate, and the registrar receiving such copy shall follow the procedure prescribed for him in the first clause of Section 66.

*(E). Of the Controlling Powers of Registrars and Inspectors-General.*

**68.** Every sub-registrar shall perform the duties of his office under the superintendence and control of the registrar in whose district the office of such sub-registrar is situate.

Every registrar shall have authority to issue (whether on complaint or otherwise) any order consistent with this Act which he considers necessary in respect of any act or omission of any sub-registrar subordinate to him, or in respect of the rectification of any error regarding the book or the office in which any document shall have been registered.

**69.** The Inspector-General shall exercise a general superintendence over all the registration offices in the territories under the Local Government, and shall have power from time to time to make rules consistent with this Act—

providing for the safe custody of books, papers, and documents, and also for the destruction of such books, papers, and documents as need no longer be kept ;

declaring what languages shall be deemed to be commonly used in each district ;

declaring what territorial divisions shall be recognized under Section 21 ;

regulating the amount of fines imposed under Sections 24 and 34, respectively ;

regulating the exercise of the discretion reposed in the registering officer by Section 63 ;

regulating the form in which registering officers are to make memoranda of documents ;

regulating the authentication by registrars and sub-registrars of the books kept in their respective offices under Section 51 ;

declaring the particulars to be contained in Indexes Nos. I, II, III, and IV, respectively ;

declaring the holidays that shall be observed in the registration offices ;

and, generally, regulating the proceedings of the registrars and sub-registrars.

The rules so made shall be submitted to the Local Government for approval, and after they have been approved, they shall be published in the official Gazette and shall then have the same force as if they were inserted in this Act.

NOTE.—For Rules under this section, see Note (c) at the end of the Act.

**70.** The Inspector-General may also, in the exercise of his discretion, remit wholly or in part the difference between any fine levied under Section 24 or Section 34, and the amount of the proper registration fee.

#### PART XII.—OF REFUSAL TO REGISTER.

**71.** Every sub-registrar refusing to register a document,  
Reasons for refusal to register to be recorded.

except on the ground that the property to which it relates is not situate within his sub-district,

shall make an order of refusal and record his reasons for such order in his Book No. 2, and endorse the words "registration refused" on the document; and on application made by any person executing or claiming under the document, shall, without payment and unnecessary delay, give him a copy of the reasons so recorded.

No registering officer shall accept for registration a document so endorsed, unless and until, under the provisions hereinafter contained, the document is directed to be registered.

**72.** Except where the refusal is made on the ground of denial of execution, an appeal shall lie against an order of a sub-registrar refusing to admit a document to registration (whether the registration of such document is compulsory or optional) to the registrar to whom such sub-registrar is subordinate, if presented to such registrar within thirty days from the date of the order; and the registrar may reverse or alter such order;

and if the order of the registrar direct the document to be registered, and the document is duly presented for registration within thirty days after the making of such order, the sub-registrar shall obey the same, and thereupon shall, so far as may be practicable, follow the procedure prescribed in Sections 58, 59, and 60; and such registration shall take effect as if the document had been registered when it was first duly presented for registration.

Application where sub-registrar refuses to register on ground of denial of execution.

**73.** When a sub-registrar has refused to register a document on the ground that any person by whom it purports to be executed, or his representative or assign, denies its execution,

any person claiming under such document, or his representative, assign, or agent authorized as aforesaid, may, within thirty days after the making of the order of refusal, apply to the registrar to whom such sub-registrar is subordinate in order to establish his right to have the document registered.

Such application shall be in writing and shall be accompanied by a copy of the reasons recorded under Section 71, and the statements in the application shall be verified by the applicant in manner required by law for the verification of plaints.

**74.** In such case, and also where such denial as aforesaid is made before a registrar in respect of a document presented for registration to him, he shall, as soon as conveniently may be, enquire—

Procedure of registrar on such application.

(a) whether the document has been executed;

(b) whether the requirements of the law for the time being in force have been complied with on the part of the applicant or person presenting the document for registration, as the case may be, so as to entitle the document to registration.

75. If the registrar finds that the document has been executed, and Order of registrar and that the said requirements have been complied with, he shall order the document to be registered. procedure thereon.

And if the document be duly presented for registration within thirty days after the making of such order, the registering officer shall obey the same and thereupon shall, so far as may be practicable, follow the procedure prescribed in Sections 58, 59, and 60.

Such registration shall take effect as if the document had been registered when it was first duly presented for registration.

The registrar may, for the purpose of any enquiry under Section 74, summon and enforce the attendance of witnesses and compel them to give evidence as if he were a Civil Court, and he may also direct by whom the whole or any part of the costs of any such enquiry shall be paid, and such costs shall be recoverable as if they had been awarded in a suit under the Code of Civil Procedure.

Refusal by registrar.

76. Every registrar refusing—

(a) to register a document except on the ground that the property to which it relates is not situate within his district, or that the document ought to be registered in the office of a sub-registrar, or

(b) to direct the registration of a document under Section 72 or Section 75,

shall make an order of refusal, and record the reasons for such order in his Book No. 2, and on application made by any person executing or claiming under the document, shall, without unnecessary delay, give him a copy of the reasons so recorded.

No appeal lies from any order under this section or Section 72.

77. Where the registrar refuses to order the document to be registered under Section 72 or Section 76, any person

Suit in case of refusal.

claiming under such document, or his representative, assign, or agent, may, within thirty days after the making of the order of refusal, institute in the Civil Court within the local limits of whose original jurisdiction is situate the office in which the document is sought to be registered, a suit for a decree directing the document to be registered in such office, if it be duly presented for registration within thirty days after the passing of such decree; and the provisions contained in the second and third paragraphs of Section 75, shall, *mutatis mutandis*, apply to all documents so presented, and notwithstanding anything contained in this Act, the document shall be receivable in evidence in such suit.

NOTE.—A case has recently come to my notice wherein a Sub-Registrar refused to register an instrument brought to him for that purpose on the insufficient ground that it was void for containing an agreement which was opposed to public policy. As erroneous refusals on grounds somewhat similar to the above are still accordingly made, I desire to remind Registering Officers that when acting in that capacity they are not Judicial Officers and should not usurp the functions of a Court of Law by deciding on the validity or invalidity of the documents presented to them for registration. It has been more than once ruled (see the cases cited at page 40 of Carr Stephen's *Indian Registration Act with notes*, 4th edition) that an officer to whom an instrument is presented for registration, is in no way concerned with its recitals or its possible operation as regards other persons; so long as the provisions of the Act are complied with, he is bound to register the instrument, whatever may be the nature of its contents. (*Registration Circular No. 5 of 1879, dated 13th June 1879*).



### PART XIII.—OF THE FEES FOR REGISTRATION, SEARCHES, AND COPIES.

Fees to be fixed by Local Government

78. Subject to the approval of the Governor-General in Council, the Local Government shall prepare a table of fees payable—

for the registration of documents :

for searching the registers :

for making or granting copies of reasons, entries, or documents, before, on, or after registration :

And of extra or additional fees payable—

for every registration under section thirty :

for the issue of commissions :

for filing translations :

for attending at private residences :

for the safe custody and return of documents :

and for such other matters as appear to the Local Government necessary to effect the purposes of this Act.

Alteration of fees.

The Local Government may from time to time, subject to the like approval, alter such table.

NOTE.—For table of fees see Note (d) at end of Act.

79. A table of the fees so payable shall be published in the official Gazette, and a copy thereof in English and the vernacular language of the district shall be exposed to public view in every registration office.

Fees payable on presentation.

80. All fees for the registration of documents under this Act shall be payable on the presentation of such documents.

NOTE.—Section 78 of the Registration Act, VIII of 1871, declares that all fees for the registration of documents under the Act are payable on the presentation of such documents. It further appears that the procedure followed in the various local Governments and administrations in dealing with the fees so received is not uniform, and that in most provinces it is in contravention of the rules of account and audit, inasmuch as the fees are not brought daily to account in the public accounts, but are kept for some time in the personal custody of the registering officers, who occasionally allow refunds of fees out of the money thus retained by them.

2 With a view to putting a stop to this irregular procedure, His Excellency the Governor General in Council is pleased to rule—

1st —That fees on documents presented for registration shall not be retained in the personal custody of any public officer longer than may be absolutely necessary, but shall be dealt with in the same way as other public money and be paid at once into the nearest treasury

2nd —That in order to provided for refunds being made without unnecessary delay, the local Governments, when a recommendation to that effect is made by the Inspector-General of Registration or officer exercising the powers of an Inspector-General of Registration, may allow to each registering officer a permanent advance of not more than Rs 20, from which refunds may be made at once, bills in detail for the amount being afterwards submitted in the usual way.

ORDERED, that the foregoing resolution be communicated to the Home Department, the several local Governments, the Comptroller-General, and the several local Accountants-General in independent charge, for information and guidance—(*Government of India Notification No. 125, dated 9th January 1874, Financial Department—Punjab Gazette of 5th February 1874, p 41*).

### PART XIV.—OF PENALTIES.

81. Every registering officer appointed under this Act, and every person employed in his office for the purposes of this Act, who, being charged with the endorsing, copying, translating, or registering of any document presented or deposited under its provisions, endorses, copies, translates or registers such document in a manner which he knows or

believes to be incorrect, intending thereby to cause, or knowing it to be likely that he may thereby cause, injury, as defined in the Indian Penal Code, to any person, shall be punished with imprisonment for a term which may extend to seven years, or with fine, or with both.

- Penalty for certain other offences**
82. Whoever commits any of the following offences shall be punishable with imprisonment for a term which may extend to seven years, or with fine or with both:
- (a) **Making false statements before registering officer** intentionally makes any false statement, whether on oath or not, and whether it has been recorded or not, before any officer acting in execution of this Act, in any proceeding or inquiry under this Act ;
  - (b) **Delivering false copy or translation.** intentionally delivers to a registering officer, in any proceeding under Section 19 or Section 21, a false copy or translation of a document, or a false copy of a map or plan ;
  - (c) **False personation** falsely personates another, and in such assumed character presents any document, or makes any admission or statement, or causes any summons or commission to be issued, or does any other act in any proceeding or inquiry under this Act ;
  - (d) **Abetment of offences under Act.** abets within the meaning of the Indian Penal Code anything made punishable by this Act.

83. A prosecution for any offence under this Act coming to the knowledge of a registering officer in his official capacity may be commenced by or with the permission of the Inspector-General, the Branch Inspector-General of Sindh, the registrar or sub-registrar in whose territories, district, or sub-district, as the case may be, the offence has been committed.

Offences punishable under this Act shall be triable by any Court or officer exercising powers not less than those of a Magistrate of the second class :

Provided that, in imposing penalties under this Act, no such Court or officer shall exceed the limits of jurisdiction prescribed by the law for the time being in force as to such Court or officer.

All fines imposed under this Act may be recovered, if for offences committed outside the limits of the presidency towns, in the manner prescribed by the Code of Criminal Procedure, and if for offences committed within those limits, in the manner prescribed by any Act regulating the police of such towns for the time being in force.

NOTE — As amended by Act XII of 1879

**Registering officers to be deemed public servants**

84. Every registering officer appointed under this Act shall be deemed a public servant within the meaning of the Indian Penal Code.

Every person shall be legally bound to furnish information to such registering officer when required by him to do so. And in Section 228 of the same Code, the words "judicial proceeding" shall include any proceeding under this Act.

A registrar shall, but a sub-registrar shall not, as such, be deemed a Court within the meaning of Sections 435 and 436 of the Code of Criminal Procedure.

## PART XV.—MISCELLANEOUS.

Destruction of unclaimed documents.

85. Documents (other than wills) remaining unclaimed in any registration office for a period exceeding two years, may be destroyed.

Registering officer not liable for thing *bona fide* done or refused in his official capacity.

86. No registering officer shall be liable to any suit, claim, or demand by reason of anything in good faith done or refused in his official capacity.

Nothing so done invalidated by defect in appointment or procedure.

87. Nothing done in good faith pursuant to this Act, or any Act hereby repealed, by any registering officer, shall be deemed invalid merely by reason of any defect in his appointment or procedure.

Registration of documents executed by Government officers or certain public functionaries.

88. Notwithstanding anything herein contained, it shall not be necessary for any officer of Government, or for the Administrator-General of Bengal, Madras, or Bombay, or for any Official Trustee, or Official Assignee, or for the Sheriff, Receiver, or Registrar of a High Court, to appear in person or by agent at any registration office in any proceeding connected with the registration of any instrument executed by him in his official capacity, or to sign as provided in Section 58.

But when any instrument is so executed, the registering officer to whom such instrument is presented for registration may, if he think fit, refer to any Secretary to Government or to such officer of Government, Administrator-General, Official Trustee, Official Assignee, Sheriff, Receiver or Registrar, as the case may be, for information respecting the same, and, on being satisfied of the execution thereof, shall register the instrument.

89. Every officer granting a loan under the Land Improvement Loans Act, 1883, shall send a copy of his order to the registering officer within the local limits of whose jurisdiction the whole or any part of the land to be improved, or of the land to be granted as collateral security, is situate, and such registering officer shall file the copy in his Book No. 1.

Every Court granting a certificate under Section 316 of the Code of Civil Procedure shall send a copy of such certificate to the registering officer within the local limits of whose jurisdiction the whole or any part of the immoveable property comprised in such certificate is situate, and such officer shall file the copy in his Book No. 1.

Every officer granting a loan under the Agriculturists' Loans Act, 1884, shall send a copy of any instrument whereby immoveable property is mortgaged for the purpose of securing the repayment of the loan, and, if any such property is mortgaged for the same purpose in the order granting the loan, a copy also of that order, to the registering officer within the local limits of whose jurisdiction the whole or any part of the property so mortgaged is situate, and such registering officer shall file the copy or copies, as the case may be, in his Book No. 1.

NOTE.—The above section has been amended by Act XII of 1879, Act XIX of 1883, Section 12, and Act VII of 1886, Section 3.

## Exemptions from Act.

90. Nothing contained in this Act, or in Act No. VIII of 1871, or in any Act thereby repealed, shall be deemed to require, or to have at any time required, the registration of any of the following documents or maps :—

Exemption of certain documents executed by or in favor of Government.

(a). Documents issued, received, or attested by any officer engaged in making a settlement or revision of settlement of land-revenue, and which form part of the records of such settlement.

(b). Documents and maps issued, received, or authenticated by any officer engaged on behalf of Government in making or revising the survey of any land, and which form part of the record of such survey.

(c). Documents which, under any law for the time being in force, are filed periodically in any revenue office by patwáris or other officers charged with the preparation of village-records.

(d). Sanads, inám title-deeds and other documents purporting to be or to evidence grants or assignments by Government of land or of any interest in land.

(e). Notices given under Section 74, or Section 76, of the Bombay Land-revenue Code, 1879, of relinquishment of occupancy by occupants, or of alienated land by holders of such land.

But all such documents and maps shall, for the purposes of Sections 48 and 49, be deemed to have been and to be registered in accordance with the provisions of this Act.

NOTE.—Clause (e) has been added by Act VII of 1886

19. Subject to such rules and the previous payment of such fees as the Local Government from time to time prescribes in this behalf, all documents and maps mentioned in Section 90, clauses (a), (b), (c) and (e), and all registers of the documents mentioned in clause (d), shall be open to the inspection of any person applying to inspect the same, and, subject as aforesaid, copies of such documents shall be given to all persons applying for such copies.

NOTE.—For rules for inspection of revenue records and granting of copies under Section 88 of Act VIII of 1871 (which corresponds with this section), see Financial Commissioner's Book Circular No. 23 of 1871, amended by Circular No. 36 of 1882.

92. All rules relating to registration heretofore enforced in British Burmese registration Burma shall be deemed to have had the force of law, rules confirmed. and no suit or other proceeding shall be maintained against any officer or other person in respect of anything done under any of the said rules.

NOTES.—(a) In exercise of the powers conferred upon the Local Government by Section 5 of Act III of 1877 (*The Indian Registration Act*), and in supersession of all previous orders on the subject, the Hon'ble the Lieutenant-Governor is pleased to form districts and sub-districts for the purposes of the said Act in the manner following (that is to say) :—

(1).—The several districts of the Punjab and its Dependencies as constituted for purposes of Revenue and Administration in Punjab Government Notification, Home Department, No. 697 S, dated 15th October 1884, shall be deemed to be districts also for the purposes of registration.

(2).—The said districts shall be sub-divided into sub-districts, having limits as set forth in the annexed list.

2. This Notification shall take effect from the 1st January 1885.

## LIST.

Districts.	Sub-districts.	Limits of sub-districts.
Delhi ... ..	Delhi ... .. Sonepat ... .. Ballabgarh ... ..	The sub-collectorate of Delhi Ditto of Sonepat Ditto of Ballabgarh.
Gurgaon ... ..	Gurgaon ... .. Rewari ... .. Firozpur ... .. Nuh ... .. Palwal ... ..	The sub-collectorate of Gurgaon. Ditto of Rewari. Ditto of Firozpur Ditto of Nuh Ditto of Palwal.
Karnal ... ..	Karnal ... .. * Kunjpura ... .. Panipat ... .. Kaithal ... .. † Arnauli ... ..	The sub-collectorate of Karnal, excluding the portion comprised in the Kunjpura sub-district. The jagir villages of the Nawab of Kunjpura, situated in the Karnal sub-collectorate. The sub-collectorate of Panipat. The sub-collectorate of Kaithal, excluding the portion comprised in the Arnauli sub-district. The jagir villages of the Bhai of Arnauli, situated in the Kaithal sub-collectorate, and the villages of the Gohila Thana in which he exercises judicial powers.
Hissar ... ..	Hissar ... .. Hansi ... .. Bhiwani ... .. Barwala ... .. Fatahabad ... .. Sirsa ... ..	The sub-collectorate of Hissar. Ditto of Hansi. Ditto of Bhiwani. Ditto of Barwala. Ditto of Fatahabad. Ditto of Sirsa.
Rohtak ... ..	Rohtak ... .. Jhajjar ... .. Sampla ... .. Gohana ... ..	The sub-collectorate of Rohtak. Ditto of Jhajjar. Ditto of Sampla. Ditto of Gohana.
Umballa ... ..	Umballa ... .. Umballa Cantonment ... .. Rupar ... .. Jagadhri ... .. Kharar ... ..	The sub-collectorate of Umballa excluding the Military cantonment The Military cantonment of Umballa. The sub-collectorate of Rupar. The sub-collectorate of Jagadhri, excluding the villages situated in the Buriya sub-district The sub-collectorate of Kharar, excluding the villages situated in the Sohana sub-district.

\* The sub-district of Kunjpura abolished and the area thereof annexed to the existing sub-district of Karnal. (No. 22, dated 28th April 1886—*Punjab Gazette* of 29th idem, Part I, page 250).

† Sub-district of Arnauli abolished and area annexed to Kaithal. (No. 31, dated 13th July 1888—*Punjab Gazette* of 19th idem, Part I, page 492).

## LIST—continued.

Districts.	Sub-districts.	Limits of sub-districts.
Umballa—(old) ...	Naraingarh ...	The sub-collectorate of Naraingarh.
	Pipli ...	Ditto of Pipli, excluding the villages situated in the Buriya sub-district
	Sohana ..	The jagir villages of the Sardar of Sohana, situated in Kharar sub-district
	Buriya ...	The villages of the Jagadhri and Pipli sub-collectorates in which the Sardar of Buriya exercises judicial powers.
Simla ..	Simla ...	The sub-collectorates of Simla and Barauli, including the Jutogh cantonment, but excluding the tracts forming the sub-district of Kasauli
	Kasauli ..	The Military cantonments of Kasauli, Dagshai, Solon and Subathu, the Sanawar (Lawrence Asylum) estate, and the town of Kalka
	Kot Khai ..	The sub-collectorates of Kot Khai and Kotgarh.
Ludhiana ..	Ludhiana ...	The sub-collectorate of Ludhiana, excluding the portions comprised in the sub-districts of Ramgarh and Malaudh.
	Ramgarh ...	The jagir villages of Sardar Uttam Singh of Ramgarh, in the Ludhiana sub-collectorate.
	Malaudh ..	The jagir villages of Sardar Badan Singh of Malaudh, in the Ludhiana sub-collectorate.
	Samrala ...	The sub-collectorate of Samrala
Ferozepore ...	Jagraon ..	Ditto Jagraon.
	Ferozepore	The sub-collectorate of Ferozepore, excluding the Military Cantonment and such villages as are situated in the Mamdot and Sultan Khanwala sub-districts
	Ferozepore Cantonment ...	The Military Cantonment of Ferozepore.
	Zira ...	The sub-collectorate of Zira
	Muktsar ...	Ditto Muktsar, excluding such villages as are situated in the Mamdot sub-district.
	Moga ...	The sub-collectorate of Moga excluding the portions comprising Butar and Baghaparana sub-districts
	† Butar ..	The following villages in the Moga sub-collectorate:—
	Butar	Ranko
	Daodhar.	Bir Sirkar.
	Maliana.	Minan.
	Lopau.	Ku-sa.
	Badhni Kalan.	Rama.
	Badhni Khurd.	Patti Diwana.
	Rania	Machiki.
	Burj Dunna.	Himmstpura
	Gholia Khurd	Bhagke
	Gholia Kalan	Saidoke
	Phulwala	Mehdeokey
	Samadh Bhai.	Ghaziana
	Manoki.	Burj Hamira
	Raonta.	Dina
	Didariwala.	Kishangarh
	Bariwala	Khai
	Khota.	Patto Hira Singh
	Bir Ranka.	Patto Didar Singh
		Ramuwala Harchoka.
		Patto Jowahir Singh.
		Ransi Kalan
		Ransi Khurd
		Maddoke
		Bonda
		Dhulkot Charat Singh.
		Dhulkot Kalan.
		Dhulkot Sani.
		Dala
		Ramuwala Kalan.
		Nangal
		Lohara.
		Takhtupura.
		Bilaspur.
		Dhulkot.
		Nehal Singhwala.
		Tikhanwadh.
		Ramuwala Nawa.
	† Baghaparana ...	The villages of the Moga sub-collectorate in which Sodht Rajinder Singh exercises judicial powers.

† Abolished. Areas annexed to sub-district of Moga. (No. 18, dated 18th April 1888, Punjab Gazette of 19th idem, Part I, page 388).

## LIST—continued.

Districts.	Sub-districts.	Limits of sub-districts.								
Ferozepore—(old)	* Sultan Khanwala	The villages of the Ferozepore sub-collectorate in which Sodhi Indar Singh exercises judicial powers.								
	* Mamdot ...	The villages situated in the Ferozepore and Muktsar sub-collectorates, comprising the estate of the Nawab of Mamdot.								
	Fazilka ...	The sub-collectorate of Fazilka.								
Jullundur ...	Jullundur ...	The sub-collectorate of Jullundur, excluding the Military Cantonment and the Thana of Adampur.								
	Jullundur Cantonment.	The Military Cantonment of Jullundur.								
	Alawalpur ...	The Thana of Adampur.								
	Phillour ...	The sub-collectorate of Phillour.								
	Nawashahr ...	Ditto Nawashahr.								
	Nakodar ...	Ditto Nakodar.								
Hoshiarpur ...	Hoshiarpur ...	The sub-collectorate of Hoshiarpur.								
	Dasuya ...	Ditto Dasuya.								
	Garhshankar ...	Ditto Garhshankar.								
	Una ...	Ditto Una, excluding the Thanas of Anandpur and Nurpur.								
	Anandpur ...	The Thanas of Anandpur and Nurpur.								
† Kangra ...	Dharmasala ...	The sub-collectorate of Kangra.								
	Palampur ...	Ditto Palampur.								
	Dera ...	Ditto Dera, excluding the taluka of Changar Balihar.								
	Jawalamukhi ...	The taluka of Changar Balihar, in the Dera sub-collectorate.								
	Hamirpur ...	The sub-collectorate of Hamirpur, excluding the portions comprising the sub-districts of Kutlehr, Nadaun, and Lambagraon.								
	Kutlehr ...	The taluka of Kutlehr in the Hamirpur sub-collectorate.								
	Nadaun ...	The jagir villages of Raja of Nadaun in the Hamirpur sub-collectorate.								
	Lambagraon ...	The villages comprising the Lambagraon jagir in the Hamirpur and Palampur sub-collectorates.								
	Nurpur ...	The sub-collectorate of Nurpur.								
	Kulu ...	The sub-collectorate of Kulu, excluding the portions comprising the sub-districts of Kelang, Jagatsukh and Plach.								
	Kelang ...	The taluka of Lahaul in the Kulu sub-collectorate.								
	Jagatsukh ...	The Kothis of Jagatsukh, Bursai, Manali and Baragarh in the Kulu sub-collectorate.								
	Plach ...	The parganah of Plach in the Kulu sub-collectorate.								
Amritsar ...	Amritsar ...	The sub-collectorate of Amritsar.								
	Ajnala ...	The sub-collectorate of Ajnala, excluding villages situated in the Atari sub-district.								
	Tarn Taran ...	The sub-collectorate of Tarn Taran, excluding ditto.								
	†† Atari ...	The following towns and villages in the sub-collectorates of Tarn Taran and Ajnala:—								
		<p style="text-align: center;"><i>In the Tarn Taran sub-collectorate.</i></p> <table> <tr> <td>Atari.</td><td>Lohorimal.</td><td>Bhagna Khurd.</td></tr> <tr> <td>Dhanoa Kalan.</td><td>Achinkot.</td><td>Kullawala.</td></tr> <tr> <td>Rulkanjari.</td><td>Bagrian.</td><td>Ghairi.</td></tr> </table>	Atari.	Lohorimal.	Bhagna Khurd.	Dhanoa Kalan.	Achinkot.	Kullawala.	Rulkanjari.	Bagrian.
Atari.	Lohorimal.	Bhagna Khurd.								
Dhanoa Kalan.	Achinkot.	Kullawala.								
Rulkanjari.	Bagrian.	Ghairi.								

\* Abolished Areas annexed to sub-district of Ferozepur. (No. 18, dated 13th April 1888, Punjab Gazette of 19th idem, Part I, page 388).

† See No. 8, dated 13th February 1888, Punjab Gazette of 16th idem, Part I, page 210, No. 12, dated 5th March 1888, Punjab Gazette of same date, Part I, page 330, and No. 16, dated 11th April 1888, Punjab Gazette, of 12th idem, Part I, page 379.

†† Abolished. Area annexed to the sub-districts of Tarn Taran and Ajnala respectively. (No. 44, dated 12th September 1888, Punjab Gazette of 13th idem, Part I, page 644).

## LIST—continued.

Districts.	Sub-districts.	Limits of sub-districts.		
Amritsar—(old)...	Atari—(old) ...	Dhanoo Khurd. Ratan Kalan. Ratan Khurd. Mode.  Dande.  Roranwala. Ranyeke.  Naista. Kanka. Pandiyar. Dhole Vind. Janjarpur. Garenda. Karenda. Rakh Sarai Amanat Khan. Sarai Amanat Khan. Pura Katri. Laihan. Chakal. Bachar Khurd.	Hoshiarnagar. Mahawa. Phagna Kalan. Naushahra Dhala.  Gande Vind Chiina. Sukarchak. Rakh Raja Teja Singh. Naushera Chak. Chabba. Dudi. Kot Sohian. Gadri Bhagiari. Sohl Thathi. Thathi Sohl. Bachar Kalan.  Malian.  Mahi Mani. Ganga Bhua. Mianpur.	Hair. Mulowal. Nathupur. Chinia Mahmud- nagar. Ladhewala.  Jatol. Gulluwala.  Kalso. Bhusa, Burj. Raja Tal. Bheni. Daoke. Pehropal. Kasil.  Basarki.  Dhand. Chak. Khairi.
		<i>In the Ajnala sub-collectorate.</i>		
		Chak Ala Bakhsh. Pindari. Bhariwal. Udar. Rakh. Bachi Vind.  Dalla.	Joiki. Chaliki. Kimaski. Shahura. Dalliki. Vaniki. Chak Vinda Khurd.	Behrwal. Padri. Nurpur. Chandan. Kakriwal. Kot Aol Khan.
Gurdaspur ...	Gurdaspur ...	The sub-collectorate of Gurdaspur.		
	Pathankot ...	Ditto Pathankot.		
	Shakargarh ...	Ditto Shakargarh.		
	Batala ...	The sub-collectorate of Batala, excluding the villages comprising the Dera Nanak sub-district.		
	* Dera Nanak ...	The following towns and villages in the Batala sub-collectorate:—		
		Fatahgarh. Thatta. Khokar. Sodhi Nangal. Chittorigarh. Shamsherpur. Dhandai. Hodaiwal. Badwal Khurd. Hakim Beg. Badwal Kalan. Sharakot.	Bholiki. Alipur. Rupawali. Malukwali. Shekowali. Khodai. Talwandi Raman. Khatiala. Niko Sarni. Shahpur Jajan. Udawali Khurd. Udawali Kalan.	Khudai. Khanha Chaunnara. Singpur. Shampur. Mahta. Dharmaliad. Gurchak. Dala. Talwamdi Bhandra. Panwan. Mansur. Laluwal.

\* The sub-district of Dera Nanak abolished and the area added to the Batala sub-district. (No. 7, dated 10th February 1885, Punjab Gazette of 12th idem, Part I, page. 81).



## LIST—continued.

Districts.	Sub-districts.	Limits of sub-districts.			
Gurdaspur—(cid.)	Dera Nanak—(cid.)	<table> <tr> <td> Gharkian. Loharanwali. Samrai. Tirpula. Kot Maulvi. Pabbarali. Pirancha. Kotli Viran. Khusar Tali. Malliwali. Alawalwali. Vila Tega. Jhanjnan Kalan. Jhanjnan Khurd. Dadu Jahad. Salai Nangal. Dogar. Owan. Teja Kalan. Teja Khurd. Mangianwali. Chieharala. Muridki. Rajiki. Chakmaman. Panian. Bum. Moluwali. Rai Mul. Chackanwali. Ghumar. Khallalpur Samrai. Moan. Tapala. Baholpur. Shakri. Kalanwali. Khushalpur. Harali Kalan. Harali Khurd. Rampur. Kohta. Kastival. Saidpur. Kot Majlis Kallai Nangal </td> <td> Tarowali. Padhai Malukwala. Kot Khazani. Chandu Suja. Gilanwala. Tukterwali. Kalai Afghana. Dalachak. Chitta. Sarai. Dhianpur. Basantkot. Kheri. Dhawan. Dhariwali. Nurpur. Raowal. Ghazi Nangal. Ratta. Abadal. Jorian Kalan. Mahal Nangal. Rattar Chattar. Maghian. Mulowali. Dharmkot. Shahzada. Maghar. Nawa Pind Pirka- wala. Koh Ahmad Khan Gujarpur. Kallar. Durat. Dulurji. Kadian. Jangla. Nanachak. Bishanwal. Nasaki. Talwandi Bahrit. Koteli Baman. Aliwal Banna. Dahanwali. Mallowal. Khokar. </td> <td> Basulpur. Ghanea-ki-Bhet. Ganian. Paranawala. Goladhola. Thetarki. Bal. Pakhoki. Viroki. Palai Nangal. Dera Nanak. Kharawali. Koteli Diaram. Sadhawali. Chandu Nangal. Jorian Khurd. Phangtana Luban. Phangtana Robar- wali. Mahthai. Ransiki. Hardowal. Shahpur Goraha. Mariransiki. Machrala. Ugwan. Kadian. Lalwandi Gowha. Chori. Marar. Ghogha. Rahali Kalan. Rahali Khurd. Bharatwal. Sundal. Sarchar. Kalluwal Khirai. Paruwal. Sanjarwal. Vertilai Khadian. Kotla Shaplan. Ullawala Jattan. Ghanai-ki-Bangar. Mandadwal. Kila Desa Singh. Pallarwali. Sikhwan. </td> </tr> </table>	Gharkian. Loharanwali. Samrai. Tirpula. Kot Maulvi. Pabbarali. Pirancha. Kotli Viran. Khusar Tali. Malliwali. Alawalwali. Vila Tega. Jhanjnan Kalan. Jhanjnan Khurd. Dadu Jahad. Salai Nangal. Dogar. Owan. Teja Kalan. Teja Khurd. Mangianwali. Chieharala. Muridki. Rajiki. Chakmaman. Panian. Bum. Moluwali. Rai Mul. Chackanwali. Ghumar. Khallalpur Samrai. Moan. Tapala. Baholpur. Shakri. Kalanwali. Khushalpur. Harali Kalan. Harali Khurd. Rampur. Kohta. Kastival. Saidpur. Kot Majlis Kallai Nangal	Tarowali. Padhai Malukwala. Kot Khazani. Chandu Suja. Gilanwala. Tukterwali. Kalai Afghana. Dalachak. Chitta. Sarai. Dhianpur. Basantkot. Kheri. Dhawan. Dhariwali. Nurpur. Raowal. Ghazi Nangal. Ratta. Abadal. Jorian Kalan. Mahal Nangal. Rattar Chattar. Maghian. Mulowali. Dharmkot. Shahzada. Maghar. Nawa Pind Pirka- wala. Koh Ahmad Khan Gujarpur. Kallar. Durat. Dulurji. Kadian. Jangla. Nanachak. Bishanwal. Nasaki. Talwandi Bahrit. Koteli Baman. Aliwal Banna. Dahanwali. Mallowal. Khokar.	Basulpur. Ghanea-ki-Bhet. Ganian. Paranawala. Goladhola. Thetarki. Bal. Pakhoki. Viroki. Palai Nangal. Dera Nanak. Kharawali. Koteli Diaram. Sadhawali. Chandu Nangal. Jorian Khurd. Phangtana Luban. Phangtana Robar- wali. Mahthai. Ransiki. Hardowal. Shahpur Goraha. Mariransiki. Machrala. Ugwan. Kadian. Lalwandi Gowha. Chori. Marar. Ghogha. Rahali Kalan. Rahali Khurd. Bharatwal. Sundal. Sarchar. Kalluwal Khirai. Paruwal. Sanjarwal. Vertilai Khadian. Kotla Shaplan. Ullawala Jattan. Ghanai-ki-Bangar. Mandadwal. Kila Desa Singh. Pallarwali. Sikhwan.
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Lahore	Lahore	The sub-collectorate of Lahore, excluding the Meean Meer Cantonment.			
	Meean Meer	The Military Cantonment of Meean Meer.			
	Kasur	The sub-collectorate of Kasur.			
	Chuniap	Ditto ditto Chuniap.			
	Sharakpur	Ditto ditto Sharakpur.			

## LIST—continued.

Districts.	Sub-districts.	Limits of sub-districts.
Mooltan ...	Mooltan ...	The sub-collectorate of Mooltan, excluding the Military Cantonment.
	Mooltan Cantonment ...	The Military cantonment of Mooltan.
	Shujabad ...	The sub-collectorate of Shujabad.
	Lodhran ...	Ditto Lodhran.
	Mailsi ...	Ditto Mailsi.
	Sarai Sidhu ...	Ditto Sarai Sidhu.
Jhang ...	Jhang ...	The sub-collectorate of Jhang.
	Chiniot ...	Ditto Chiniot.
	Shorkot ...	Ditto Shorkot.
Montgomery ...	Montgomery ...	The sub-collectorate of Montgomery.
	Dipalpur ...	Ditto Dipalpur.
	Gugera ...	Ditto Gugera.
	Pakpattan ...	Ditto Pakpattan.
Rawalpindi ...	Rawalpindi ...	The sub-collectorate of Rawalpindi, excluding the Military Cantonment.
	Rawalpindi Cantonment.	The Military cantonment of Rawalpindi.
	Attock ...	The sub-collectorate of Attock.
	Murree ...	Ditto Murree.
	Kahuta ...	Ditto Kahuta.
	Pindigheb ...	Ditto Pindigheb.
	Fatahjang ...	Ditto Fatahjang.
	Gujar Khan ...	Ditto Gujar Khan.
Jhelum ...	Jhelum ...	The sub-collectorate of Jhelum.
	Pind Dadan Khan ...	Ditto Pind Dadan Khan.
	Chakwal ...	Ditto Chakwal.
	Talagang ...	Ditto Talagang.
Gujrat ...	Gujrat ...	The sub-collectorate of Gujrat.
	Kharian ...	Ditto Kharian.
	Phalia ...	Ditto Phalia.
Shahpur ...	Shahpur ...	The sub-collectorate of Shahpur.
	Bhera ...	Ditto Bhera.
	Khushab ...	Ditto Khushab.
Gujranwala ...	Gujranwala ...	The sub-collectorate of Gujranwala, excluding villages situated within the Batala and Shekhupura sub-districts.
	Wazirabad ...	The sub-collectorate of Wazirabad, excluding villages situated within the Batala sub-district.
	Hafizabad ...	The sub-collectorate of Hafizabad, excluding villages situated within the Shekhupura sub-district.

## LIST—continued.

Districts.	Sub-districts.	Limits of sub-districts.																																																																																																									
Gujranwala—(old.)	* Batala ...	<p>The following villages in the sub-collectorates of Gujranwala and Wazirabad :—</p> <p><i>In the Gujranwala sub-collectorate.</i></p> <table> <tr> <td>Udhuwali.</td><td>Chahil Kohna.</td><td>Zafarabad.</td></tr> <tr> <td>Aulakh.</td><td>Chak Umar.</td><td>Fatahki.</td></tr> <tr> <td>Arjan.</td><td>Chak Chatta.</td><td>Kila Dan.</td></tr> <tr> <td>Batala.</td><td>Chak Mir Ali.</td><td>Kila Wazir Singh.</td></tr> <tr> <td>Bijjumul.</td><td>Chak Virkan.</td><td>Kila Chanda Singh.</td></tr> <tr> <td>Bal.</td><td>Chabha Sindhaura.</td><td>Kila Jaggu.</td></tr> <tr> <td>Bakshishpura.</td><td>Godha.</td><td>Kila Diwan Singh.</td></tr> <tr> <td>Bhiri Khurd.</td><td>Ladhiki.</td><td>Kila Bhahian.</td></tr> <tr> <td>Bhiri Kalan.</td><td>Madnipur.</td><td>Kila Majju Singh.</td></tr> <tr> <td>Bahlol Chak.</td><td>Madan Chak.</td><td>Kila Sujan Singh.</td></tr> <tr> <td>Bhiladpur.</td><td>Makiwala.</td><td>Kalowali.</td></tr> <tr> <td>Philoki Khurd.</td><td>Musapur.</td><td>Kot Bula.</td></tr> <tr> <td>Philoki Kalan.</td><td>Nurpur.</td><td>Kotli Lakha.</td></tr> <tr> <td>Palangpur.</td><td>Nankarian.</td><td>Kot Jiwa.</td></tr> <tr> <td>Pokharpur.</td><td>Jallianwala.</td><td>Kot Chand.</td></tr> <tr> <td>Panj Garaira.</td><td>Chiddar.</td><td>Kot Nadhan.</td></tr> <tr> <td>Tariwala.</td><td>Chak Jed.</td><td>Kot Kesho.</td></tr> <tr> <td>Bijja.</td><td>Kalipur.</td><td>Kot Ladha.</td></tr> <tr> <td>Targa.</td><td>Dharmkot.</td><td>Kot Lala.</td></tr> <tr> <td>Thabal.</td><td>Dhidu Dugal.</td><td>Kalsian.</td></tr> <tr> <td>Tonganwali.</td><td>Dhillu Basha.</td><td>Khiwa Duggal.</td></tr> <tr> <td>Thatta Arjan.</td><td>Dhappi Mehtab Singh.</td><td>Garhi.</td></tr> <tr> <td>Theri Gilran.</td><td>Dhappi Bisakha Singh.</td><td>Nokhar.</td></tr> <tr> <td>Thatta Daswandhi.</td><td>Dera Dhundo Ram.</td><td>Nathu Suja.</td></tr> <tr> <td>Thatta Kutba.</td><td>Ratta Thothar.</td><td>Wariwala.</td></tr> <tr> <td>Badoki.</td><td>Ramgarh.</td><td>Higar.</td></tr> <tr> <td>Thatta Basan.</td><td>Sago Bhago.</td><td>Hardo Deodi.</td></tr> <tr> <td>Jodhpur.</td><td>Saratabad.</td><td>Hamoke.</td></tr> <tr> <td>Jhillian.</td><td>Ducha.</td><td>Kila Didar Singh.</td></tr> <tr> <td>Chak Beg.</td><td></td><td>Kamowali.</td></tr> <tr> <td>Chahil Nawan.</td><td></td><td>Kot Lajja Ram.</td></tr> </table> <p><i>In the Wazirabad sub-collectorate.</i></p> <table> <tr> <td>Bhoma.</td><td>Kot Bangas.</td><td>Kot Shah Muhammad</td></tr> <tr> <td>Budhn Rajada.</td><td>Kot Jahangir.</td><td>Kot Dewal.</td></tr> <tr> <td>Sal.</td><td>Kot Rasul.</td><td>Nat.</td></tr> <tr> <td></td><td></td><td>Nidal pakka.</td></tr> </table>	Udhuwali.	Chahil Kohna.	Zafarabad.	Aulakh.	Chak Umar.	Fatahki.	Arjan.	Chak Chatta.	Kila Dan.	Batala.	Chak Mir Ali.	Kila Wazir Singh.	Bijjumul.	Chak Virkan.	Kila Chanda Singh.	Bal.	Chabha Sindhaura.	Kila Jaggu.	Bakshishpura.	Godha.	Kila Diwan Singh.	Bhiri Khurd.	Ladhiki.	Kila Bhahian.	Bhiri Kalan.	Madnipur.	Kila Majju Singh.	Bahlol Chak.	Madan Chak.	Kila Sujan Singh.	Bhiladpur.	Makiwala.	Kalowali.	Philoki Khurd.	Musapur.	Kot Bula.	Philoki Kalan.	Nurpur.	Kotli Lakha.	Palangpur.	Nankarian.	Kot Jiwa.	Pokharpur.	Jallianwala.	Kot Chand.	Panj Garaira.	Chiddar.	Kot Nadhan.	Tariwala.	Chak Jed.	Kot Kesho.	Bijja.	Kalipur.	Kot Ladha.	Targa.	Dharmkot.	Kot Lala.	Thabal.	Dhidu Dugal.	Kalsian.	Tonganwali.	Dhillu Basha.	Khiwa Duggal.	Thatta Arjan.	Dhappi Mehtab Singh.	Garhi.	Theri Gilran.	Dhappi Bisakha Singh.	Nokhar.	Thatta Daswandhi.	Dera Dhundo Ram.	Nathu Suja.	Thatta Kutba.	Ratta Thothar.	Wariwala.	Badoki.	Ramgarh.	Higar.	Thatta Basan.	Sago Bhago.	Hardo Deodi.	Jodhpur.	Saratabad.	Hamoke.	Jhillian.	Ducha.	Kila Didar Singh.	Chak Beg.		Kamowali.	Chahil Nawan.		Kot Lajja Ram.	Bhoma.	Kot Bangas.	Kot Shah Muhammad	Budhn Rajada.	Kot Jahangir.	Kot Dewal.	Sal.	Kot Rasul.	Nat.			Nidal pakka.
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	† Shekhupura ...	The villages in the Gujranwala and Hafizabad sub-collectorates in which Raja Harbans Singh exercises judicial powers.																																																																																																									

\* In exercise of the powers conferred upon the Local Government by Section 5 of Act III of 1877 (*The Registration Act*), the Hon'ble the Lieutenant-Governor is pleased to abolish the sub district of Batala in the Gujranwala District, and to re-annex to the Gujranwala sub-district so much of the area of the said Batala sub-district as is situate in the Gujranwala sub-collectorate, and to the Wazirabad sub-district so much of the area of the said Batala sub-district as is situate in the Wazirabad sub-collectorate.

This notification shall take effect from 15th March 1885.

(No. 16, dated 2nd March 1885. *Punjab Gazette of 5th idem, Part I, page 168*).

† Abolished and the area added to the sub-districts of Gujranwala and Hafizabad according as the villages concerned are situated in the Gujranwala and Hafizabad tahsils. (No. 42, dated 20th September 1887, *Punjab Gazette of 22nd idem, Part I, page 527*).

## LIST—concluded.

Districts..	Sub-districts.	Limits of sub-districts.
Sialkot ...	Sialkot ...	The sub-collectorate of Sialkot, excluding the Military Cantonment.
	Sialkot Cant.	The Military Cantonment of Sialkot.
	Pasrur ...	The sub-collectorate of Pasrur.
	Raya ...	Ditto Raya.
	Zafarwal ...	Ditto Zafarwal.
	Daska ...	The sub-collectorate of Daska, excluding the villages comprising the Vadala sub-district.
	Vadala ...	The villages situated in the Daska sub-collectorate in which Sardar Dyal Singh exercises judicial powers.
Dera Ismail Khan	Dera Ismail Khan	The sub-collectorate of Dera Ismail Khan.
	Bhakkar ...	Ditto Bhakkar.
	Leiah ...	Ditto Leiah.
	Kulachi ...	Ditto Kulachi.
	Tank ...	Ditto Tank.
Dera Ghazi Khan	Dera Ghazi Khan	The sub-collectorate of Dera Ghazi Khan.
	Rajanpur ...	Ditto Rajanpur.
	Sanghar ...	Ditto Sanghar.
	Jampur ...	Ditto Jampur.
Bannu ...	Bannu ...	The sub-collectorate of Bannu.
	Mianwali ...	Ditto Mianwali.
	Laki ...	Ditto Marwat.
	Isa Khel ...	Ditto Isa Khel.
Muzaffargarh ...	Muzaffargarh ...	The sub-collectorate of Muzaffargarh.
	Alipur ...	Ditto Alipur.
	Sinanwan ...	Ditto Sinanwan.
Peshawar ...	Peshawar ...	The sub-collectorate of Peshawar, excluding the Military Cantonment.
	Peshawar Cantonment.	The Military Cantonment of Peshawar.
	Mardan ...	The sub-collectorate of Yusufzai.
	Naushahra ...	Ditto Khalsa Khatak.
	Hashtnagar ...	Ditto Hashtnagar.
	Utman Bolak ...	Ditto Utman Bolak.
	Daudzai ...	Ditto Doaba Daudzai.
Hazara ...	Abbottabad ...	The district of Hazara, excluding the sub-collectorates of Haripur and Mansahra.
	Haripur ...	The sub-collectorate of Haripur.
	Mansahra ...	Ditto Mansahra.
Kohat ...	Kohat ...	The district of Kohat, excluding the sub-collectorate of Hangu.
	Hangu ...	The sub-collectorate of Hangu.

(b) — In exercise of the powers conferred upon the Local Government by Sections 6 and 7 of Act III of 1877 (*the Indian Registration Act*), and in supersession of all previous orders on the subject, the Hon'ble the Lieutenant-Governor is pleased —

(1) to appoint all officers in administration charge of the districts constituted for purposes of Revenue and Administration in Punjab Government for the purposes of Registration, also to establish their offices at the head quarters of such districts,

(2) to appoint the public officers and other persons mentioned in columns 4 and 5 of the annexed list to be Sub Registrars or Joint sub-registrars (as the case may be) in the Sub-districts mentioned in column 3 thereof, also to establish the offices of such sub registrars and Joint Sub registrars at the places mentioned in column 3 thereof

2 Thus Notification shall take effect from the 1st January 1885

1	2	3	4	5	6
Districts	Sub Districts	Situation of office	SUB REGISTRARS		REMARKS
			Ex officio	Other persons	
Delhr*	Delhi	Delhi Sonepat Ballabgarh	Tahsildar	Note —All entries in this column, being merely personal appointments, have been omitted	Joint
	Sonepat Ballabgarh		Ditto Ditto		
Gurgaon	Gurgaon	Gurgaon Farrukhnagar Rewari Ferozpur Nuh Palwal	Treasury Officer Tahsildar		Joint
	Rewari		Tausildar		
	Ferozpur		Ditto		
	Nuh		Ditto		
	Palwal		Ditto		
Karnal	Karnal	Karnal Kunjpura Panipat Kaithal † Arnauli	Treasury Officer Tahsildar	.. .. .. .. ..	Joint
	* Kunjpura		Tahsildar		
	Panipat		Ditto		
	Kaithal				
	† Arnauli				

Hissar	...	Hissar	...	Hissar	Treasury Officer Tahsildar	...	...	Joint.
Hansi	...	Hansi	...	Hansi	Ditto	...	...	
Bhiwani	...	Bhiwani	...	Bhiwani	Ditto	...	...	
Barwala	...	Barwala	...	Barwala	Ditto	...	...	
Fatahabad	...	Fatahabad	...	Fatahabad	Ditto	...	...	
Sirsa	...	Sirsa	...	Sirsa	Ditto	...	...	
Rohtak	...	Rohtak	...	Rohtak	Treasury Officer Tahsildar	...	...	Joint.
Jhajjar	...	Jhajjar	...	Jhajjar	Ditto	...	...	
Sampla	...	Sampla	...	Sampla	Ditto	...	...	
Gohana	...	Gohana	...	Gohana	Ditto	...	...	
Umballa	...	Umballa	...	Umballa	Treasury Officer Tahsildar	...	...	Joint.
Umballa Cantonment	...	Umballa Cantonment	...	Umballa Cantonment	Cantonment Magistrate	...	...	
Rupar	...	Rupar	...	Rupar	Tahsildar	...	...	
Jagadhri	...	Jagadhri	...	Jagadhri	Ditto	...	...	
Kharar	...	Kharar	...	Kharar	Ditto	...	...	
Naraingarh	...	Naraingarh	...	Naraingarh	Ditto	...	...	
Pipli	...	Pipli	...	Pipli	Ditto	...	...	
Sohana	...	Sohana	...	Sohana	...	...	...	
Buriya	...	Buriya	...	Buriya	...	...	...	
Simla	...	Simla	...	Simla	Treasury Officer Assistant Commissioner Naib Tahsildar	...	...	
Kasauli	...	Kasauli	...	Kasauli	...	...	...	
Kotkhai	...	Kotkhai	...	Kotkhai	...	...	...	
Ludhiana	...	Ludhiana	...	Ludhiana	Treasury Officer Tahsildar	...	...	Joint.
Ramgarh	...	Ramgarh	...	Ramgarh	...	...	...	
Malauddh	...	Malauddh	...	Malauddh	...	...	...	
Samralla	...	Samralla	...	Samralla	Tahsildar	...	...	
Jagraon	...	Jagraon	...	Jagraon	Ditto	...	...	

\*Sub-district of Kunjpura abolished, and the area thereof annexed to the existing sub-district of Karnal. (No. 22, dated 28th April 1886, Punjab Gazette of 29th idem, Part I, p. 250).  
 † Abolished. Area annexed to Kaithal. (No. 31, dated 13th July 1888, Punjab Gazette of 19th idem, Part I, p. 492).

1	2	3	4	5	6
Districts	Sub-districts	Situation of Office	SUB-REGISTRARS	REMARKS	
			Ex-officio	Other persons	
Ferozepore	Ferozepore	Ferozepore	Treasury Officer	..	{ Joint.
	Ferozepore Cantonment	Ditto	Tahsildar	..	{ Joint.
	Zira	Zira	Cantonment Magistrate	..	{ Joint.
	Muktsar	Muktsar	Tahsildar	..	{ Joint.
	Moga	Moga	Ditto	..	{ Joint.
	Batala	Batala	Ditto	..	{ Joint.
	Bagha parana	Bagha parana	Tahsildar	..	{ Joint.
	Sultan Khan	Sultan Khan	Tahsildar	..	{ Joint.
	Mandla	Mandla	Tahsildar	..	{ Joint.
	Fazilka	Fazilka	Tahsildar	..	{ Joint.
Jullundur	Jullundur	Jullundur	Treasury Officer	..	{ Joint.
	Jullundur Cantonment	Ditto	Cantonment Magistrate	..	{ Joint.
	Alawalpur	Alawalpur	Tahsildar	..	{ Joint.
	Phillour	Phillour	Ditto	..	{ Joint.
	Navashahr	Navashahr	Tahsildar	..	{ Joint.
	Nakodar	Nakodar	Tahsildar	..	{ Joint.
Hoshiarpur	Hoshiarpur	Hoshiarpur	Tahsildar	..	{ Joint.
	Dasuya	Dasuya	Tahsildar	..	{ Joint.
	Garhsankar	Garhsankar	Tahsildar	..	{ Joint.
	Una	Una	Tahsildar	..	{ Joint.
	Anandpur	Anandpur	Tahsildar	..	{ Joint.
			Tahsildar	..	{ Joint.
			Tahsildar	..	{ Joint.
			Tahsildar	..	{ Joint.
			Tahsildar	..	{ Joint.
			Tahsildar	..	{ Joint.
			Tahsildar	..	{ Joint.
			Tahsildar	..	{ Joint.
			Tahsildar	..	{ Joint.
			Tahsildar	..	{ Joint.
			Tahsildar	..	{ Joint.
			Tahsildar	..	{ Joint.
			Tahsildar	..	{ Joint.
			Tahsildar	..	{ Joint.
			Tahsildar	..	{ Joint.
			Tahsildar	..	{ Joint.
			Tahsildar	..	{ Joint.
			Tahsildar	..	{ Joint.
			Tahsildar	..	{ Joint.
			Tahsildar	..	{ Joint.
			Tahsildar	..	{ Joint.

Kangra ...	{ Dharmasala Kangra Palampur Dera Jawalankhi Hamirpur Kutlehr Nadaun Lambagraon Nurpur Kulu Kelang Jagat Sukh Plach	...	...	...	...	Joint.
Amritsar ...	{ Amritsar Ajnala Tarn Taran Atari	...	...	...	...	Joint.
Gurdaspur ...	{ Gurdaspur Pathankot Shakargarh Batala Dera Nanak	...	...	...	...	Joint.

\* Abolished — Vide No. 18, dated 13th April 1888, Punjab Gazette of 19th idem, Part I, p. 388.  
 \* \* Canceled — See No. 46, dated 21st October 1885, Punjab Gazette of 22nd idem, Part I, p. 769  
 † New sub-district of Palampur formed of certain villages excluded from Dharmasala and Hamirpur sub-districts. (No. 8, dated 13th February 1888, Punjab Gazette of 16th idem, Part I, p. 210)  
 †† Abolished — See No. 44, dated 12th September 1888, Punjab Gazette of 13th idem, Part I, p. 644  
 ††† The registry office at Kishankot abolished. (No. 19, dated 18th March 1885, Punjab Gazette of 19th idem, Part I, p. 210).  
 †††† Dera Nanak abolished. No. 7, dated 30th February 1885, Punjab Gazette of 12th idem, Part I, p. 81.



1	2	3	4	5	6
Districts	Sub districts.	Situation of Office	SUB-REGISTRARS		REMARKS.
			as office	Other persons	
Lahore ..	Lahore ..	Lahore	Tahsildar	...	{ Joint
	Meean Meer ..	Meean Meer	Cantonment	Magistrate	
	Kasur ...	Kasur	Tahsildar	...	
	Chunian ...	Chunian	Ditto	...	
	Sharakpur ..	Sharakpur	Ditto	...	
Mooltan ..	Mooltan ..	Mooltan	Tahsildar	...	{ Joint
	Mooltan Cantonment ...	Ditto	Cantonment	Magistrate	
	Shunabad ..	Shunabad	Tahsildar	...	
	Lodhran ..	Lodhran	Ditto	...	
	Mailsi ..	Mailsi	Ditto	...	
Jhang ..	Sarai Sidhu ...	Sarai Sidhu	Ditto	...	{ Joint
	Jhang ..	Jhang	Treasury Officer	...	
	Chimot ..	Chimot	Tahsildar	...	
	* Shorkot ...	Shorkot	Ditto	...	
	Ditto ..	Ditto	Ditto	...	
Montgomery ..	Montgomery ..	Montgomery	Treasury Officer	...	{ Joint
	Dipalpur ..	Dipalpur	Tahsildar	...	
	Gugera ..	Gugera	Ditto	...	
	Pakpattan ..	Pakpattan	Ditto	...	
	Ditto ..	Ditto	Ditto	...	
Rawalpindi ..	Rawalpindi ..	Rawalpindi	Tahsildar	...	{ Joint
	Rawalpindi Cantonment	Ditto	Cantonment	Magistrate	
	Attock ..	Attock	Tahsildar	...	
	Murree ..	Murree	Assi-tant	Commissioner	
	Kahuta ..	Kahuta	Tahsildar	...	
	Pindigheb ..	Pindigheb	Ditto	...	
	Fatabjang ..	Fatabjang	Ditto	...	
	Gujar Khan ..	Gujar Khan	Ditto	...	

Jhelum	Jhelum	Jhelum	Treasury Officer Tahsildar	...	...	Joint.
	Pind Dadan Khan	Pind Dadan Khan	Ditto	...	...	
	Chakwal	Chakwal	Ditto	...	...	
	Talagang	Talagang	Ditto	...	...	
Gujrat	Gujrat	Gujrat	Treasury Officer Tahsildar	...	...	Joint
	Kharian	Kharian	Ditto	...	...	
	Phalia	Phalia	Ditto	...	...	
Shahpur	Shahpur	Shahpur	Treasury Officer Tahsildar	...	...	Joint
	Bhera	Bhera	Ditto	...	...	
	Khushab	Khushab	Ditto	...	...	
Gujranwala	Gujranwala	Gujranwala	Tahsildar	...	...	Joint.
	Wazirabad	Wazirabad	Ditto	...	...	
	Hafizabad	Hafizabad	Ditto	...	...	
	† Batala	Batala	..	...	...	
	† Shekhupura	Shekhupura	..	...	...	
Sialkot	Sialkot	Sialkot	Treasury Officer Tahsildar	...	...	Joint.
	Sialkot Cantonment	Ditto	Cantonment Magistrate	...	...	
	Pasur	Pasur	Tahsildar	...	...	
	Raya	Raya	Ditto	...	...	
	Zafarwal	Naiawal	..	...	...	
	Daska	Zafarwal	Tahsildar	...	...	Joint.
	Vadala	Daska	Ditto	...	...	
		Vadala	..	...	...	

\* Under the provisions of Sections 6 and 7 of Act III of 1877 (The Indian Registration Act), the Hon'ble the Lieutenant-Governor is pleased to establish an office of Joint sub-registrar at Garh Maharaja, in the Sialkot sub-district of the Jhang District. • • • • • This Notification will take effect from 11th April next. (No 13, dated 5th March 1886, Punjab Gazette of 11th idem, Part I, page 109).

† Sub-district of Batala abolished. (No 16, dated 2nd March 1885, Punjab Gazette of 5th idem, Part I, p. 168).

† Shekhupura abolished. (No. 42, dated 20th September 1887, Punjab Gazette of 22nd idem, Part I, p. 527).

1	2	3	4	5	6	
Districts.	Sub-districts.	Situation of Office.	SUB-REGISTRARS.		REMARKS.	
			Ex-officio.	Other persons.		
Dera Ismail Khan.	Dera Ismail Khan	{	Treasury Officer	...	{ Joint.	
	Bhakkar	...	Tahsildar	...		
	Leiah	...	Ditto	...		
	Kulachi	...	Ditto	...		
	Tauk	...	Ditto	...		
Dera Ghazi Khan.	Dera Ghazi Khan	{	Treasury Officer	...	{ Joint.	
	Rajanpur	...	Tahsildar	...		
	Sanghar	...	Ditto	...		
	Jampur	...	Ditto	...		
Bannu	Bannu	{	Treasury Officer	...	{ Joint.	
	Mianwali	...	Tahsildar	...		
	Laki	...	Ditto	...		
	Isa Khel	...	Ditto	...		
Muzaffargarh...	Muzaffargarh	{	Treasury Officer	...	{ Joint.	
	Alipur	...	Tahsildar	...		
	Sinawan	...	Ditto	...		
Peshawar	Peshawar	{	...	...	{ Joint.	
	Peshawar Cantonment...	...	Tahsildar	...		
	Mardan	...	Cantonment Magistrate	...		
	Naushahra	...	Tahsildar	...		
	Hashtnagar	...	Ditto	...		
	Utman Bolak	...	Ditto	...		
	Daudrai	...	Ditto	...		

Hesara	...	Abbott-abad	..	Abbott-abad	{	Treasury Officer	..	..	{ Joint.
		Haripur	...	Haripur		Ditto		..	
		Mansahra	..	Mansahra		Ditto		..	
Kohat	...	Kohat	..	Kohat	{	Treasury Officer	..	..	{ Joint.
		Hangu	...	Hangu		Ditto	..	..	

(Notification No. 130, dated 24th December 1884, Punjab Gazette of 25th idem, Part I, p 1240)

(a) —The following rules, made by the Inspector-General of Registration, Punjab, under Section 69 of Act III of 1877, *The Indian Registration Act*, have been approved by the Hon'ble the Lieutenant-Governor and are published for general information.

2. These rules shall take effect from 1st April 1881, and from that date the rules published with Punjab Government Notification No. 2239, dated 22nd May 1877, shall cease to have effect.

**RULES MADE UNDER SECTION 69 OF THE INDIAN REGISTRATION ACT, 1877, FOR THE PUNJAB AND ITS DEPENDENCIES**

**CUSTODY AND DESTRUCTION OF RECORDS**

1. The offices of all registering officers have been supplied with one or more strong, tin-lined boxes with Chubb's locks; in these boxes the register books and all papers and documents connected therewith shall be kept; and no money or valuables of any kind shall be deposited therein. The box shall be placed in the room where the registering officer transacts his public business, and shall be opened and closed by that officer himself, or in his presence. When locked, the key shall be retained in his own possession. The duplicate keys of these locks supplied to sub-registrars shall remain in the custody of the registrar of the district, who will label each with the name of the sub-district to which it belongs, and deposit it in some safe place.

2. Every registering officer shall be responsible for the preservation and safe custody of all registration records, including those of previous years, which have accumulated in his office or have been transferred to it. To prevent injury occurring to the older records by damp, white-ants, &c., the boxes should be thoroughly emptied out, and their contents examined, once a week. Should any injury happen to any of the records, whether by white-ants, fire, flood, or otherwise, an immediate report of the circumstance, and of the extent of damage done shall be made to the Inspector-General by the registrar of the district, who shall record at the same time his opinion as to whether any one and who is to blame, and as to the measures to be taken to repair the injury so far as may be possible.

3. The registrar of every district has been supplied with a fire-proof safe. In this safe shall be kept Wills in sealed covers, and Authorities to Adopt which may have been deposited under the provisions of Act XX of 1866, and Authorities to Adopt executed before the 1st January 1872 which may have been deposited under Section 2 of Act VIII of 1871; also Wills in sealed covers which have been deposited or may be presented for deposit under Section 43, and Wills which have been or may be opened under Section 45 of Act VIII of 1871 or Act III of 1877. It shall not be used for any other purpose whatever. The key of the safe shall remain in the personal custody of the registrar, who alone shall open and close it; the duplicate key shall be deposited in some secure place. The safe shall be placed where it cannot be affected by damp: and it shall be opened at least once a month with the view of ascertaining that its contents (if any) are correct and in good condition, and that the lock is in order; and the registrar shall report monthly to the Inspector-General the result of this examination or, if no such examination from unavoidable cause has been made during the month, the reason for it.

4. Inspections of register books and indexes allowed to applicants under Section 57 of Act III of 1877 shall be made in the presence of the registering officer, and without writing materials.

5. If the production of a register book or of any document in the custody of a registering officer be required by any Court, it shall be forwarded under charge of a member of the registration establishment, and application shall be made to the Court for payment of his expenses.

6. At the close of each official year, every sub-registrar shall report to the registrar of his district, in such form as may be prescribed from time to time by the Inspector-General, the different kinds of documents and records, and the periods to which they belong, which he considers may be destroyed; and the registrar, after examining all the reports of his district and recording his opinion thereon shall add a report of the same description for his own office, and forward the whole for the orders of the Inspector-General, whom they should reach by the 1st of May. Ordinarily no document or record less than three years old should be proposed for destruction; and no document or record shall be destroyed without the express sanction of the Inspector-General. Wills must never be destroyed.

7. When a registered document is destroyed under Section 85, a note to that effect shall be made in the column for remarks opposite the copy in the book in which it was registered. When a document, the registration of which has been refused, is destroyed under the same section, a similar note shall be made in the column of remarks opposite the record of refusal in Book No. 2.

**LANGUAGES.**

8. With reference to Section 19 of the Act, it is declared that the languages deemed to be commonly in use in the Punjab and its Dependencies are English and Urdu; but documents presented for registration may be written in any language. In case, however, of the language being other than Urdu, they must be accompanied by a true Urdu translation, and also by a true copy; provided that documents written in English need not be accompanied by translations or copies when presented at the office of a registrar, or of a sub-registrar at the head-quarters of a district, or when the registering officer is a European officer.

### TERRITORIAL DIVISIONS

9. The territorial divisions to be recognized under Section 21 are the "district" and the "tahsil" as existing for revenue purposes, and where a tahsil is divided into parganas, the "pargana." The names of these divisions shall be entered in all documents relating to houses (other than those situate in towns) and lands, in addition to the name of the village and the boundaries of the property

### FINES

10. Fines for delay in presenting documents for registration shall be levied, under Section 24, according to the following scale. No registration fees shall be levied in addition to these fines —

Where the delay has not been more than one month	} An amount equal to twice the proper registration fee
Where the delay has been more than one month, but not more than two	} An amount equal to three times the proper registration fee
Where the delay has been more than two months, but not more than three	} An amount equal to six times the proper registration fee
Where the delay has been more than three months	} An amount equal to ten times the proper registration fee

Additional fines for delay in appearance shall be levied, under the proviso in Section 34, according to the same scale

11 Applications to the Inspector General for remission in whole or in part, under Section 70, of any fine levied in accordance with the foregoing Rule, shall be in writing, and shall be forwarded by the registrar of the district, who shall record his opinion thereon. No such application shall be received or forwarded unless the document has been registered, and the fine or fines paid

### OATHS

12 The discretion vested in registering officers by Section 63 should be used with reserve, and oaths administered only in exceptional cases. For the purposes of this section, an oath includes an affirmation under Section 6 of Act X of 1873

13 Statements made on oath under Section 63 shall not be recorded on the document to which they relate, but on separate sheets of paper which shall be filed in the office. A note, however, to the effect that recorded evidence has been taken shall in such case be endorsed on the document and entered in the book in which it is registered, in the column provided for copies of endorsements

### MEMORANDA OF DOCUMENTS

14 The memoranda of documents registered required to be made under Sections 64, 65, 66, and 67, shall be prepared upon printed forms, to be supplied from the office of the Inspector-General, containing the following headings —

- (1) Date of execution
- (2) Name and addition of executant
- (3) Name and addition of person in whose favour executed
- (4) Nature and value of transaction
- (5) Description of immoveable property concerned
- (6) Particulars of registration

The "addition" of the persons concerned to be entered in columns (2) and (3) is the "addition" as described in Section 3 of the Act, and the word is to be so interpreted when similarly used throughout these rules. Column (4) should describe the transaction briefly, as "sale of agricultural land," or as the case may be. The description of the property in column (5) should contain as nearly as possible the particulars mentioned in Section 21, and should always be sufficient for its identification, and only that portion of the property which is situate in the sub-district to which the memorandum is sent should be entered. Column (6) should show the date and office of registration, the registry number, and the book, volume and page where it has been registered

15 When a registrar receives a copy under Section 65, 66, or 67, of an English document which requires that memoranda be forwarded to sub-registrars who do not understand English, the memoranda shall be prepared in Urdu.

### AUTHENTICATION OF REGISTER BOOKS

16 Every entry made in register books Nos 1, 3 and 4, shall be an exact counterpart of the original and shall be carefully compared with it: all interlineations, blanks, erasures or alterations which appear in the original shall be shown in the copy entered in the register. The registering officer shall satisfy himself that this has been done, verifying by his signature

or initials any corrections rendered necessary by mere errors of transcription, but no such correction shall be made by erasure with a knife. The registering officer shall also see that the entry has been made in the book to which it properly belongs, that the number affixed to it is that which it ought to bear in order to maintain the consecutive series required by Section 53, and that the book, the volume, and the page entered in the certificate of registration are correctly stated, after which he shall authenticate the entry by legibly affixing his signature in full, together with his official designation, at the end of the copy of the document registered. Copies of endorsements shall also be initialed or signed by the registering officer. All signatures must be copied into the register books in their proper places, whether such signatures occur in the original documents or in the endorsements made in the registry office. The entries in all the books prescribed by these rules shall be authenticated daily.

17. When by any chance an error has been made in the consecutive numbering of documents registered, as provided in Section 53, and the error is not discovered in time to admit of its correction before the document is given back to the presenter or the party authorized by him to receive it, the erroneous number must be allowed to stand, and no subsequent alteration is permitted, but a note of the error shall be made in the proper column of the register, and signed by the registering officer.

#### INDEXES

18. The current indexes required by Section 54 to be kept up in every registration office, shall be prepared on printed forms to be supplied from the office of the Inspector-General, and shall contain the particulars hereinafter set forth.

19. Index No I is that in which Section 55 requires that the names and additions of all persons executing, and of all persons claiming under every document entered or memorandum filed in Book No I shall be entered. It shall contain the following headings —

- (1). Name of person
- (2). Father's name.
- (3). Residence
- (4). Profession, trade, caste
- (5). Interest in the transaction (*e g* purchaser, mortgagee, &c).
- (6). Number of volume in which document is registered
- (7). Page of ditto
- (8). References (*i e*, to initial letters of other index entries relating to the same transaction)

This index shall contain the names and additions not only of the parties concerned in the documents copied into Book No I, but also of those concerned in the copies or memoranda of documents received from other registration offices and filed under Sections 64, 65, 66 and 67, as well as those contained in the copies of certificates granted by Revenue officers under the Land Improvement Act, 1871, and of certificates granted by Civil Courts under Section 316 of the Code of Civil Procedure, which are filed under Section 83 of the Registration Act.

20. Index No II is that in which, by Section 55, the particulars mentioned in Section 21, relating to every document entered or memorandum filed in Book No. 1, are to be entered. It shall contain the following headings —

- (1). Name of city, town, or village
- (2). Name of tahsil or pargana.
- (3). Name of district
- (4). Nature of transaction (*e g*, sale of land, lease of house, mortgage of land or house, &c).
- (5). Number of volume in which document is registered.
- (6). Page of ditto

A sub-registrar, on receiving a document of the nature mentioned in Section 64 or 65 shall enter in this index only that portion of the property which is situate in his own sub-district. A registrar on receiving a copy of a document under Section 65, 66 or 67, shall enter only the property situate in his own district. A sub-registrar on receiving a memorandum of a document under Section 63, 65, 66, or 67, or a copy of a certificate under Section 89, shall enter the particulars of the property concerned in this index.

21. Index No III is that in which Section 55 requires the names and additions of all persons executing every Will and Authority to Adopt copied into Book No 3, and of the executors and persons respectively appointed thereunder, and after the death of the testator or donor (but not before) the names and additions of all persons claiming under the same, shall be entered. It shall contain the same headings as Index No I.

22. Index No IV is that in which Section 55 requires the names and additions of all persons executing and of all persons claiming under every document copied into Book No. 4 to be entered. It shall contain the headings prescribed for Index No. I.

23. Index entries shall be made on the same day as the document to which they relate is copied or filed in its proper register. They shall be made alphabetically, in Urdu, in the first instance on loose forms, a separate form being used for each letter of the alphabet. When any one of these forms becomes filled up in a sub-registrar's office, he shall cause a clearly written copy of it to be made without delay and forwarded to the registrar of his district, and open a fresh form for the same initial letter. On the expiration of the calendar year, the remaining entries under each letter shall be copied and forwarded to the registrar. In forwarding index sheets, the sub-registrar shall note at the foot of the 1st page of each sheet the date up to which it contains entries, and shall also attach his signature and the date of despatch: Provided that nothing in this rule shall require a sub-registrar to furnish the registrar of his district with copies of entries in his Index No IV.

24. Registrars on receiving index sheets from their sub-registrars, shall file them with their own index sheets, each under its appropriate letter.

25. At the close of each calendar year, the loose index sheets in every office shall be bound into volumes of convenient size, care being taken that they are arranged in correct alphabetical order, and that the entries which, under Section 57, are open to public inspection (Indexes Nos I and II) are bound separately from those which are not (Indexes Nos III and IV).

26. In the case of natives, the first letter of the person's name shall be the guide to the letter under which the index entry is to be made, and not of his title or caste. In the case of Europeans, the initial letter of the surname shall be the guide. In the case of documents in which the Government is concerned, an index entry shall be made (amongst others) under the letter *س* (*sin*) as the initial letter of *Sarkar*.

#### HOLIDAYS

27. The holidays to be observed in registration offices shall be those authorized by the Chief Court for the Civil Courts of the Province. All the provisions of Section 26 apply to such holidays, but it shall be optional with registering officers to keep their offices open during all or any of them, as they may think fit.

#### REGISTER BOOKS

28. The books required by Section 51 to be kept in registration offices shall consist of printed forms to be supplied by the Inspector-General, containing the headings hereinafter described, and paged consecutively, bound in volumes of convenient size the number of pages in each volume being certified on the title page. These volumes shall be numbered consecutively (a separate series for each book), and the number shall not terminate with the calendar year, but shall run on perpetually. Every registering officer on receiving such a volume from the Inspector-General's office, shall immediately examine it, to see that it contains the certified number of pages, and that these have been numbered in proper consecutive order; and he shall note the result on the title page.

29. When a volume is filled up, the registering officer shall certify after the last entry the number of entries made therein during the current calendar year, and the number of pages on which they are written; he shall also examine those entries and note in his certificate any errors or defects that he may discover.

30. At the close of each calendar year, the registering officer shall certify after the last entry of each current volume, the number of entries made in that volume during the year, and the number of pages on which they are written; he shall also examine those entries, and note in his certificate any errors or defects that he may discover. If no entry have been made during the year in any volume he shall certify to that effect.

31. Book No I is the register of non-testamentary documents relating to immoveable property. It and the indexes relating thereto are open to public inspection, and copies of entries in them shall be given to all persons applying for them on payment of the prescribed fees. In this book shall be entered all documents registered under Sections 17 and 18 which relate to immoveable property and are not Wills. It shall contain the following headings—

- (1). Value of stamp, and copy of all endorsements made in the registry office.
- (2). Serial number of entry, nature and value of transaction, and amount of registration and other fees and fines levied.
- (3). Copy of document registered.
- (4). Remarks.

32. But besides the ordinary entries in this book, the Act requires that the following documents shall be "filed in Book No 1"—

Copies of maps and plans (Section 61):

Copies and memoranda of documents received from other registering officers (Sections 64 to 67):

Copies of certificates granted by Revenue officers under the Land Improvement Act, 1871, and of certificates of sale granted by Courts under Section 316 of the Code of Civil Procedure (Section 89).



To these may be added translations and copies of documents written in languages not in common use (Section 62).

To prevent the injury to the binding and the disturbance of paging which would result if these documents were filed in the bound volumes, a separate file book, hereinafter described, to be called "Supplementary Book No. I," shall be kept in each office, in which the above-mentioned documents shall be pasted in.

33. When any document is registered in Book No. 1 affecting some other document previously registered in it, a note referring to the latter document shall be entered in the column for remarks opposite the entry of the earlier document.

34. When a document is registered under Section 62, a note of the pages of Supplementary Book No. 1 on which the translation and copy have been filed shall be made in the column for remarks. A similar note shall be made when a copy of a map or plan is filed under Section 61.

35. Supplementary Book No. 1 is a file-book for the purpose of filing (pasting in) the copies and memoranda mentioned in Rule 32; it shall contain printed slips pagged in consecutive order and having columns headed as follows :—

- (1). Date of receipt of copy or memorandum.
- (2). Date on which document was executed.
- (3). Name and addition of executant.

As regards the copies of maps and plans, and the translations and copies of foreign instruments filed in this book under Sections 61 and 62, it will be sufficient to note thereon the registry number and date of registration of the document to which they appertain, and the volume and page where the entry will be found. But all other copies and memoranda filed in this book shall be numbered consecutively and the necessary particulars given of them in Indexes Nos. I. and II as provided in Rules 19 and 20.

36. Book No. 2 is the record of reasons for refusal to register. It is also open to public inspection, and copies of entries in it shall be given to all persons applying for them; in the event of the applicants being persons executing or claiming under the document, registration of which has been refused, or their representatives or agents, the copies shall be given free of charge. This book shall contain the following headings :—

- (1). Serial number.
- (2). Date of order of refusal.
- (3). Name of person presenting document.
- (4). Nature and value of transaction.
- (5). Reasons for refusal.
- (6). Remarks.

The reasons for refusal should be sufficiently full to enable an appellate or inspecting officer to judge of their sufficiency, but they need not contain a summary of any evidence which the registering officer may have taken; such evidence should be recorded in separate sheets of paper and filed in the office. When a document the registration of which was originally refused is subsequently registered by order of a registrar under Section 72 or 75, or of a Civil Court under Section 77, a note of such order shall be made in column (6) of this register opposite the original record of refusal.

37. When a registering officer refuses to register a document solely on the ground of want of jurisdiction, he shall hand it back to the person presenting it without recording an order of refusal either on the document or in his Book No. 2.

38. Under Section 30, clause (a), discretionary authority is given to the registrar of a district to receive and register any document which might be registered by any sub-registrar subordinate to him; while the jurisdiction of the registrar of the Lahore District is extended by clause (b) so as to include documents relating to immoveable property situate in any part of British India. Registrars will exercise the discretion here given them with a due regard to the public convenience. Where the document is a Will or Authority to Adopt, or where it relates to a transaction in which the sub-registrar having jurisdiction is pecuniarily interested, or where it is written in English and the sub-registrar having jurisdiction is unacquainted with that language, the registrar should never refuse to accept it for registration, except for very cogent reasons. Where a registrar decides that a document presented to him under Section 30 ought to be registered in the office of a sub-registrar, he shall return it to the person presenting it without recording an order of refusal either on the document or in his Book No. 2. When the registrar of the Lahore District registers a document under Section 30, clause (b), he must carefully observe the provisions laid down in Section 67 of the Act.

39. Registering officers should bear in mind that they are in no way concerned with the validity of documents brought to them for registration, and that it would be wrong for them to refuse to register on any such grounds as the following, *e.g.*, that the executant was dealing with property not belonging to him, or that the instrument infringed the rights

of third persons not parties to the transaction, or that the transaction was fraudulent or opposed to public policy. These and such like are matters for decision, if necessary, by competent Courts of law, but with which registering officers, as such, have nothing to do. If the document be presented in a proper manner by a competent person at the proper office within the time allowed by law, and if the registering officer be satisfied that the alleged executant is the person he represents himself to be, and if such person admit execution, the registering officer is bound to register the document without regard to its possible effects.

40. If any person admit the execution of a document presented for registration, but deny the receipt in whole or part of the consideration recited therein, registration shall not be refused because of such denial, but a note of the denial shall be made in the endorsement required by Section 58.

41. The fact that a document is not duly stamped under the Indian Stamp Act, 1879, is not, of itself, a sufficient reason for recording an order refusing to register it. The proper course is for the registering officer to impound the document and send it to the Collector as prescribed in that Act; and if the document be received back from the Collector, cured of the defect of stamp, within the time allowed by law for registration, and it be otherwise admissible, the registering officer shall register it.

41½. If the executant of a document who is in doubt about the proper stamp consults a registering officer on the subject before formal presentation, the required information may be given to him without impounding the document.

[Note—The above rule is added by No. 57, dated 6th December 1887, *Punjab Gazette* of 8th idem, Part I, p. 633.]

42. Orders refusing to register should be made only after due care and consideration, and if the impediment to registration be a mere informality or defect capable of remedy, opportunity should always be given to the parties to correct the flaw. In such cases registration shall be deferred, and no final order of refusal shall be made until the document concerned becomes time-barred.

43. When, under Section 35 of the Registration Act as amended by Act XII of 1879, registration is admitted as to some of the parties to a document, but is refused as to the rest, the registering officer shall endorse thereon an order in this form:—"Registration refused as to A B and C D" and shall record the reason for this partial refusal in his Book No. 2; but in all other respects he shall proceed with the registration of the document in the ordinary manner.

44. Book No. 3 is the register in which Wills and Authorities to Adopt are to be copied after they have been accepted for registration under Section 41; also such Wills as have been opened under Sections 45 and 56. This book is not open to public inspection, nor are its indexes, but copies of entries in it or them shall, on payment of the prescribed fees, be given to the persons executing the documents to which such entries relate, or to their agents, and after the death of the executants (but not before) to any person applying for such copies. The necessary search shall be made by the registering officer in person. When a Will entered in this book affects immoveable property situate in districts or sub-districts other than that where the entry has been made, no copy or memorandum of such Will need be sent to the registering officers of those districts or sub-districts. This register shall contain the same headings as Book No. 1.

45. To prevent mistakes, it is here explained that every document making posthumous disposition of property is a "Will" and should, when registered, be entered in Book No. 3. Further, that a document which merely declares the fact of having adopted a son or giving a son for adoption is not an authority "to adopt," and should not be entered in this book unless it contains testamentary dispositions which bring it within the above definition of "Will."

46. Book No. 4 is the Miscellaneous register in which are to be copied all documents registered under clauses (d) and (f) of Section 18, which do not relate to immoveable property. It is not open to public inspection, nor are its indexes and copies of entries in it or them shall be given, on payment of the prescribed fees, only to the parties executing or claiming under the documents to which such entries relate or to the agents or representatives of such persons. The necessary search shall be made by the registering officer in person. This register shall contain the same headings as Book No. 1.

47. When under the provisions of Section 39 of Act I of 1877 (*The Specific Relief Act*), any registered document is cancelled by order of Court, and a copy of the decree is sent to the office in which it was registered, a note of the cancellation shall be made in red ink in the column for remarks of the proper register book, opposite the copy of the document cancelled, specifying the Court ordering cancellation and the No. and date of its decree. All copies of decrees received under this rule shall be filed in annual bundles.

48. Book No. 5 is the register of deposit of Wills, and is to be kept only in the offices of registrars, who alone can receive Wills in sealed covers for deposit. It shall contain the following headings :—

- (1). Serial number.
- (2) Superscription on the sealed cover
- (3) Inscription on the seal of the cover
- (4). Time of presentation and receipt of the sealed cover .—  
Year Month Day. Hour
- (5). Name of depositor
- (6) Names of persons testifying to the identity of depositor.
- (7). Time of delivery of the sealed cover to applicant for withdrawal —  
Year Month. Day Hour
- (8). Names of persons testifying to the identity of the applicant at the time of delivery.
- (9). Time of opening the sealed cover .—  
Year Month Day Hour

Columns (1) to (6) shall be filled in when a Will is first deposited under Section 43 ; columns (7) and (8) shall be filled up in the event of the Will being subsequently withdrawn ; and column (9) shall be filled up when a Will is opened after the death of the testator, under Section 45 or 46. All these several entries must be verified by the signature of the registrar for the time being. When a will has been removed by order of Court under Section 46, the fact shall be noted in red ink across the entry, and the note shall be authenticated by the signature of the registrar.

49 In addition to the above books there shall be kept in every registry office a memorandum book, to be called ' Book No 6,' for the purpose of recording brief abstracts of powers of attorney authenticated under Section 33, clause (a) It shall contain the following headings :—

- (1). Serial number
- (2). Date (year, month, day)
- (3). Name and addition of principal executing the power.
- (4). Name and addition of attorney.
- (5). Names of persons identifying the principal.
- (6). Value of stamp, amount of fees levied, and brief abstract of contents of power

In the last of these columns it shall be noted, amongst other things, whether the instrument gives express or implied authority to the attorney to present a document for registration ; whether the power is a special or a general one ; and if special, in what registration office it is intended to be used.

50. The last 33 pages of each volume of this book shall contain an alphabetical index of the entries in it, one page being allowed for each letter of the Urdu alphabet The index shall be in the following form .—

Name of principal executing power.	Page	Name of attorney	Page.

51 To prevent mistakes, it is here explained that the only description of power-of-attorney which a registering officer is competent to authenticate under Section 33 is one which contains authority to present a document for registration, and this is the only kind of power of which entries should be made in Book No 6. A power-of-attorney may of course be registered like any other document, but it will not be valid for registration purposes unless it has been authenticated under Section 33. Accordingly, when a power-of-attorney is presented by a person who presumably does not understand the distinction between registration and authentication, and it be not a power which the registering officer can authenticate, he shall register the document in his Book No 4. But if the power contain authority to present a document for registration, the registering officer shall explain the difference between authentication and registration, and ascertain the presenter's exact wishes in respect of the document. There is nothing, of course, to prevent such a document being registered as well as authenticated if the principal wishes it, but in that case the two operations shall be treated as separate transactions and the usual fees shall be levied for both.

52. Registrars and sub-registrars shall keep up such books and accounts in addition to those above mentioned, and shall render such monthly and annual returns as the Inspector-General may from time to time prescribe.

53. The consecutive numbers of entries in each book prescribed in Section 62 shall commence and terminate with the calendar year. But the annual returns shall be prepared by the official year.

54. If in any office the number of documents to be registered be so large that there is difficulty in entering them day by day in the appropriate registers, the registering officer may, with the previous sanction of the Inspector-General, keep up concurrently two volumes of any register book, the documents bearing even numbers being entered in one volume, and those bearing odd numbers in the other.

#### PROCEDURE.

55. All documents shall be presented and registered at the office at the head-quarters of each district or sub-district, as the case may be, except in cases specially provided for by the Act.

56. Commissions issued under Section 33 or 38 shall not be directed to a registry moharrir.

57. Where registering officers have other duties to perform, a certain portion of each day shall be allotted exclusively to registration work. The time so set apart shall be made generally known, and a written notice of it shall be exhibited in a conspicuous and accessible part of the building in which the registry office is located. The notice shall state the hours at which documents will be received and returned daily.

58. At the hours appointed in the notice, the registering officer shall personally receive all documents for which registration is sought, have them examined in his own presence, and if they be admissible, inform each party of the amount of fees he has to pay, and as soon as such fees are paid, the receipt prescribed in Section 52 shall be given to him. If in payment of the fees any party pay more than the exact amount due, the excess shall be returned to him at once.

59. Documents executed by persons who are unable to read shall be read out and if necessary explained to them, and the registering officer shall ascertain that they clearly understand their purport. Documents written in a language which the executants do not understand shall in like manner be interpreted and explained.

60. When the necessary endorsements have been recorded, the documents shall be made over to the registry moharrir for the purpose of being entered in their appropriate registers and as soon as this has been done, the moharrir shall return the documents to the registering officer, who shall retain them in his own possession until the time appointed for returning the documents comes round, and then cause each to be delivered in his own presence to the proper party, the receipt given for it under Rule 58 being at the same time taken back. If the party to whom the receipt was granted represent that he has lost or mislaid it, the document may be returned to him on his written acknowledgment of its return. The document shall in no case be returned to any one but the person who presented it for registration, or to his representative or agent, unless the person claiming to receive it produce the original receipt with a nomination in writing thereon as contemplated in Section 61.

61. Registering officers shall maintain a vigilant control over their moharrirs, and not place them in closer contact with the public than is unavoidable. The receiving of documents or of money, the recording of endorsements, and the returning of the documents shall not be left to the moharrirs to do at any time, or in the absence of the registering officer.

62. When the registering officer is not personally acquainted with executants he shall require them to produce persons to testify to their identity who are personally known to him or to some other person whom he personally knows. He may also, if he think fit, cause descriptive rolls to be recorded of the persons representing themselves as executants; but this procedure must be in addition to, and not take the place of, the positive procedure required by Section 34, that the registering officer shall satisfy himself of their identity, for it must be borne in mind that such descriptive rolls afford in themselves no proof of identity.

63. If the person presenting the document be an agent, he must produce a power-of-attorney authenticated in the manner prescribed in Section 33 of the Act. If he be a representative or assign he must produce evidence of his status.

#### ENDORSEMENTS.

64. Endorsements shall always be written by or in the presence of the registering officer and of the parties concerned. They should be, as far as possible, in the language best understood by the parties, that is to say, in English where the parties are Europeans, and in Urdu where they are natives. The following forms of endorsements shall be adhered to, as far as the circumstances of each case will permit :—

*A.—Forms of endorsements for authenticating powers-of-attorney under Section 33.*

(1). When the principal attends at the registration office :

"This power-of-attorney has been executed before me by (name and addition) who is a resident of my district (or sub-district) and is personally known to me," or, "is identified by———who is personally known to me."

Date

Signature of registering officer.

(2). When the registering officer visits the principal at his residence, or in Jail:—

"I have satisfied myself by personal visit that this power-of-attorney has been voluntarily executed by," &c. as before.

(3). When a commission is issued to obtain evidence as to the voluntary nature of the execution:—

"I have satisfied myself through (name) to whom a commission was issued for the purpose that this power-of-attorney was voluntarily executed by (name and addition) who is a resident of my district (or sub-district)."

Date

Signature of registering officer.

*B.—Forms of endorsements to be recorded on Wills in deposit, the sealed covers of which have been opened under Section 45 or 46.*

(4). When the Will is opened on application after the death of the testator under Section 45:—

"Having satisfied myself that the testator hereof is dead, this Will has been opened on the application and in the presence of (name and addition) this——day——of."

Signatures of registrar and applicant.

(5). When a Will is removed into Court under Section 46:—

"Opened and removed into the Court of——pursuant to order dated——."

Date

Signature of registrar.

*C.—Forms of endorsements to be recorded on every document presented for registration under Section 52.*

(6). When presented at the registration office by some person executing or claiming under it:—

"Presented by (name and addition) at the office of the registrar (or sub-registrar) of——this——day of——between the hours of——and——A.M. (or P.M.)."

Date

Signatures of registering officer and presenter.

(7). When presented at the registration office by a representative or assign:

"Presented by (name and addition) representative (or assign) of——, at the office," &c., as before.

(8). When presented at the registration office by an agent:—

"Presented by (name and addition) who holds a duly authenticated power-of-attorney authorizing him to appear on behalf of——, at the office," &c., as before.

(9). When the document is accepted for registration at a private residence under Section 81:—

"Presented by (name and addition) at his private residence, this ——," &c., as before.

*D.—Forms of endorsements to be recorded under Section 58 on every document admitted to registration, other than a copy of a decree or order, or of a certificate sent under Section 89.*

(10). When the person purporting to have executed the document admits such execution:—

"Execution admitted by (name and addition) who is personally known to the registering officer";—or, "is identified by——and——, these witnesses being personally known to the registering officer."

Date

Signature of registering officer, executant and witnesses.

(11). When any payment of money or delivery of goods is made before the registering officer, or when the executant admits (or denies) the receipt in whole or part of the consideration, the foregoing form will be modified and the fact recorded, e. g. :—

"Execution admitted and receipt of consideration (or of Rs.——in part of consideration) acknowledged by," &c., as before; or, (after "personally known to the registering officer," :—

"in whose presence the sum of Rs.——, being the consideration (or part of the consideration) recited herein, has been paid to the said——" &c, or,

"The said——denies receipt of the consideration herein recited."

(12). When the executant admits execution of the document, but refuses to sign the endorsement:—

"The above executant A. B. refuses to sign this endorsement."

(13). When the execution is admitted by an agent :—

“Execution by (*executant*) admitted by (*name and addition*), who is authorized in that behalf by a duly authenticated power-of-attorney. The said (*agent*) is identified by—— &c, as before.

(14) When the execution is admitted by a representative or assign :—

“Execution by (*executant*) admitted by (*name and addition*), of whose right to appear as the representative (*or assign*) of the said (*executant*). the registering officer is satisfied The said (*representative or assign*) is identified by ——, &c, as before

(15) When the executant is dead :—

“Execution by (*executant*), deceased, admitted by ——,” &c as before.

(16) When the document is one executed by any officers mentioned in Sec 88 :—

“Having satisfied myself that this document was executed by A. B. Official Trustee (*or as the case may be*) in his official capacity, his attendance and signature are dispensed with and this document is admitted to registration ”

Date

Signature of registering officer.

E. Form of endorsement to be recorded under Section 60, on every document registered including Wills which have been opened and copied into Book No 3, under Secs 45 & 46

(17) “Registered as No —in book——, No —, volume —— on page (or pages)—— this——day of —— ”

Date

Signature of registering officer.

65. When there is not sufficient vacant space on the back of a document for the necessary endorsements, they may be written or continued on a separate piece of paper attached to the document (*vide* definition of “endorsement” in Section 3 of the Act) but in such case both the document and its rider must bear the seal and signature of the registering officer

#### TRANSITRATION

66 In all English endorsements and entries, proper oriental names of persons and places shall be spelled according to the “modified Jonesian system” prescribed in Punjab Government Circular No 64, dated 3rd October 1873, published in the *Punjab Government Gazette* of 9th idem. Provided that where the spelling of any place has been authoritatively fixed by Government, that authorized spelling shall be followed

#### SEALS

67 Every registrar and sub registrar has been provided with a seal, as required by Section 15, bearing an inscription, in English and Urdu, of the authorized designation of his office. This seal shall always remain in the personal custody of the registering officer, and shall be used for the authentication of the following :—

- (1). All powers-of attorney attested under Section 33 clause (a)
- (2). All Commissions issued under Sections 33 and 38.
- (3). All applications for the issue of summons to witnesses under Section 36.
- (4). All copies of entries in register books and indexes granted under Section 57.
- (5). All certificates of registration made under Section 60
- (6). All copies of reasons for refusal to register granted under Section 71 or 76.
- (7). All orders issued by registrars under Section 72 or 75, directing documents to be registered
- (8). All summonses issued by registrars under Section 75

68 When a seal which has become unfit for use is replaced by a new one, the former shall be destroyed in the presence of the registrar of the district. The seals of offices permanently closed shall be destroyed in the same manner; those of offices temporarily closed shall remain in the personal custody of the registrar of the district. All new seals, whether for newly created offices, or to replace others which have become unfit for use, shall be supplied from the office of the Inspector-General

#### PROSECUTIONS.

69. Full reports of all prosecutions instituted under Part XIV. of the Indian Registration Act shall be made to the Inspector-General as soon as possible after decision, and shall be accompanied by a copy of the judgment of the Court. A preliminary report shall also be made to the Inspector-General as soon as any such prosecution is commenced, setting forth briefly the circumstances which led to the prosecution. (*Punjab Government Notification No. 3947, dated 10th November 1880, Punjab Gazette of 16th idem.*)

(d) —The subjoined revised table of fees prepared under Section 78 of Act III of 1877 (The Indian Registration Act) has been approved by the Governor-General in Council, and is herewith published for general information :—

The Hon'ble the Lieutenant Governor is pleased to declare that the fees set forth therein shall be payable for the registration of documents and other matters therein described from 1st April 1879.

Rs A. P.

ARTICLE I.—For the registration of documents :

(1) In Book I, " Register of non-testamentary documents relating to immoveable property—"

When registration is obligatory under Section 17	...	...	...	...	2	8	0
When it is optional under Section 18	...	...	...	...	0	8	0
(2) In Book III, " Register of wills and authorities to adopt"	...	...	...	...	4	0	0
(3) In Book IV, " Miscellaneous Register"	...	...	...	...	1	0	0

Provided that no fee shall be leviable for the registration of security bonds furnished by Court Inspectors and Assistant Court Inspectors of Police under the provisions of Chapter XIII of the Punjab Police Code.

NOTE —The above proviso is added by Notification No 61 dated 11th December 1885, (Punjab Gazette of 17th idem, Part I, page 1155)

ARTICLE II.—For searching the Registers

For the first hour, or part thereof	...	...	...	...	1	0	0
For each subsequent hour, or part of an hour	...	...	...	...	0	8	0

ARTICLE III —For making or granting copies of reasons, entries or documents before, on, or after registration

NOTE (a) —When the registration is refused, neither registration nor copying fee is to be levied. Copies of reasons granted before registration are those which, in case of refused registration, are given on application made by any person executing or claiming under the document as provided in Section 76 of the Act.

NOTE (b).—When application for a copy under Section 57 necessitates a search, the fee prescribed by Article II is to be levied in addition to that chargeable under Article III.

NOTE (c) —Government officers who may require to search the registers or take copies of entries in the registers for bona fide public purposes will be exempted from payment of the fees under Articles II and III on a certificate being granted by the registrar of the district that the information is required solely in the interests of Government.

#### EXTRA OR ADDITIONAL FEES.

Rs A P

ARTICLE IV.—For discretionary registration under Section 30 :—

(1). By the registrar of the district under Clause (a)	...	...	...	...	4	0	0
(2). By the registrar of the Lahore District under Clause (b)	...	...	...	...	10	0	0

NOTE —The additional fee under this Article is not payable on the registration of Wills and Authorities to Adopt.

Nor is it to be levied in cases where the sub-registrar, owing to his being pecuniarily interested in the transaction, or to his being unacquainted with the language in which the deed is written, or for any other sufficient reason, is unable to register himself.

\*ARTICLE V —For the issue of commissions, and for attending at private residences :—

(1) When a satisfactory certificate is produced as to sickness or infirmity, or when the person to be examined is in jail	...	...	...	...	5	0	0
(2). In all other cases	...	...	...	...	10	0	0

NOTE —In addition to this fee, travelling allowance at the following rates is to be levied for the actual distance travelled over, provided that the place visited is more than one mile from the registration office :—

†In the case of Government officials according to the rates prescribed in the Civil Travelling Allowance Code

In the case of all other registering officers, and of commissioners, if appointed, 1½ annas a mile by rail, and 4 annas a mile by road

ARTICLE VI.—For filing translations

\* See Registration Circulars No. 8 and 10 of 1883.

† See Notification No. 39, dated 2nd July 1883, Punjab Gazette of 5th idem, Part I, page 391.

**ARTICLE VII.—For deposit, withdrawal, and opening of sealed Wills :—** **Rs. A. P.**

(1) When deposited in sealed cover under Section 42	...	...	...	...	4	0	0
(2) When withdrawn under Section 44	..	...	...	...	2	0	0
(3). When opened under Section 45	..	...	...	...	4	0	0

**NOTE.**—No fee beyond the copying fee under Article III shall be levied for copying into Book No. 3 wills opened under Section 45.

**ARTICLE VIII.—For the authentication of a power-of-attorney under Section 33.** **1 0 0**

**ARTICLE IX.**—When under Section 36, application is made to issue and serve a summons, process fees and remuneration of the person summoned, at the rate prescribed for the Civil Courts of the Province are to be levied from the person at whose instance or in whose behalf the application is made, and forwarded with the application. When, however, the person summoned is the person who has executed the document, remuneration is not to be allowed him—(*Punjab Government Notification No. 1119, dated 26th March 1879, Punjab Gazette of 27th idem*).

Under the authority conferred upon the Local Government by Section 78 of Act III of 1877 (*The Indian Registration Act*), the Hon'ble the Lieutenant-Governor is pleased, with the approval of the Governor-General in Council, to make the following addition to the Table of Registration Fees prescribed in Punjab Government Order No. 1119, dated 26th March 1879, with effect from 1st October 1887—

**Article X**—For the safe custody of documents remaining unclaimed after registration, or after registration is refused—

**Rs. A. P.**

When application for return of a registered document, or of a document registration of which has been refused, is made more than one week, but not more than two weeks from the date of such registration or refusal . . . . . **0 4 0**

And for delay in applying for return of such document beyond two weeks, for each week or fraction thereof . . . . . **0 4 0**

Provided that the maximum fee leviable under this article in the case of a single document shall not exceed . . . . . **5 0 0**

**NOTE**—The Inspector General of Registration is empowered in his discretion to remit in whole or in part, fees levied under this article in cases in which it appears to him that their execution would be productive of injustice or hardship. (*Punjab Government Notification No. 44, dated 28th September 1887, Punjab Gazette of 29th idem, Part I, page 543*). See also Registration Circulars Nos. 6 and 7 of 1887

(e). At the request of His Honor the Lieutenant Governor the Chief Court directs that in every case in which a registered document is discredited by a Civil Court a copy of the judgment in which the document is discredited shall be forwarded for the information of the Inspector-General of Registration—(*Judicial Circular No. XXIII, para 5*)

(f) As regards the cancellation of the stamps on powers-of-attorney presented for registration, see Registration Circular No. 4 of 1878

For instructions relating to the registration of deeds of adoption, see Registration Circular No. 4 of 1879

For consolidated instructions concerning the appointment and remuneration of registering officers, see Registration Circular No. 10 of 1886

For instructions to be followed when a document is presented for registration executed on unstamped paper, exemption from stamp duty being claimed under Sch. II, Art. 18 of the Stamp Act, 1879, see Registration Circular No. 6 of 1880

For instructions concerning the Books and Records to be maintained in Registration offices (being supplementary to those contained in Rules 18 to 26, and 28 to 54, contained in Notification No. 3947, dated 10th December 1880, (*ante* Note (c)) see Registration Circular No. 1 of 1881.

For consolidated instructions concerning establishments and contingencies of registration offices, see Registration Circular No. 2 of 1881.

For instructions concerning periodical returns to be rendered by registering officers, see Registration Circular No. 3 of 1881

For instructions relating to procedure in registration offices, see Registration Circular No. 4 of 1881

For instructions for conducting official correspondence, see Registration Circular No. 6 of 1881.



**Act No. IX of 1877.***(Passed on the 28th March 1877).*

An Act to revive and amend Act No. XXIII of 1867.

**Preamble** Whereas Act XXIII of 1867 *(for the suppression of murderous outrages in certain districts of the Punjab)* received the assent of the Governor-General on the 18th day of March 1867, and by Section 17 of the said Act was limited to expire in ten years from the date of passing it; And whereas it is expedient to revive the same Act and to amend it in manner hereinafter appearing; It is hereby enacted as follows:—

**Act XXIII of 1867 to be revived**

1. The said Act shall be revived and shall remain in force until the Governor-General in Council otherwise directs.

**Amendment of Act XXIII of 1867.**

2. For the word “Commissioner” wherever it occurs in the said Act, the words “Sessions Judge or Commissioner” shall be substituted.

**Act No. XI of 1877.***(Passed on the 31st May 1877).*

An Act to facilitate the admission of Military Lunatics into Asylums.

**Preamble** Whereas it is expedient to facilitate the admission of European Military Lunatics into Asylums and to amend the law now in force with regard to the admission thereto of Native Military Lunatics; It is hereby enacted as follows:—

**Short title** 1. This Act may be called the “Military Lunatics Act, 1877 :”

**Local extent.** It extends to the whole of British India, and, so far as regards subjects of Her Majesty, to the dominions of Native Princes and States in India in alliance with Her Majesty:

**Commencement.** And it shall come into force on the passing thereof.

**Repeal of Act XXI of 1872.** 2. Act XXI of 1872 *(to facilitate the admission of Native Military Lunatics into Asylums)* shall be repealed.

**Procedure in respect of European officer or soldier declared lunatic.** 3. Whenever any European officer, warrant-officer, non-commissioned officer, soldier, or other person subject to the provisions of the Act for punishing Mutiny and Desertion and for the better payment of the Army and their quarters, for the time being in force, has been declared a lunatic in accordance with the provisions of the military regulations of the Presidency to which he belongs, and has been ordered to be forwarded to any one of the Presidency towns, and it appears to one of the Surgeons-General, either of the British Forces or of the Indian Medical Service, according to the Presidency and the service to which the said lunatic belongs, that it is inexpedient that he should be removed to England, or that he should be detained in military custody until he can be conveniently sent to England, such Surgeon-General may, if he think fit, make an order under his hand for the reception of the said lunatic into the Lunatic Asylum at Bhowanipur, Madras, or Bombay, or such other Lunatic Asylum as may be duly authorized for the purpose by the Governor-General in Council;

and the officer in charge of such asylum shall receive the lunatic in the asylum, and detain him therein until he is discharged therefrom, in accordance with the local military regulations in force for the time being, or until the Surgeon-General applies for his transfer to the military authorities in view to his removal to England.

4. Whenever any native officer, non-commissioned officer, or soldier appears to be insane, the officer commanding the regiment or detachment to which he belongs shall report the case to the general officer commanding the division or district or force in which such regiment or detachment is serving.

5. Such general officer shall thereupon cause the said native to be examined by a committee composed of at least two medical officers, or (if this be impracticable) by a regimental committee comprising the officer in command of the wing or squadron to which the native belongs, and the medical officer in charge of the corps or detachment of which such wing or squadron forms part.

6. If the said committee or regimental committee (as the case may be) are satisfied that the native is insane, the officer commanding the division or district or force may, if he think fit, make an order under his hand for the reception of the said native into a Lunatic Asylum, and shall then send him thither under military escort; and the officer in charge of such asylum shall receive the native into the asylum and detain him therein until he is discharged therefrom in accordance with the local military regulations in force for the time being.

7. Whenever it appears to the officer in charge of a Lunatic Asylum that the discharge of a military lunatic, whether European or native, is necessary either on account of his recovery, or for any other purpose, such person shall be brought before the visitors of the asylum, and on the visitors recording their opinion that the discharge should be made, the general officer commanding the division, district, or force, or other officer authorized to order the admission of military lunatics into asylums, shall forthwith direct him to be discharged, and such discharge shall take place in accordance with the local military regulations in force for the time being.

8. The paymaster of the military circle within which any such asylum is situate shall pay to the officer in charge of such asylum the expense of the lodging, maintenance, clothing, and medicine of every lunatic, whether European or native, received and detained under this Act.

9. All military lunatics heretofore received into Lunatic Asylums shall be deemed to have been so received in accordance with law.

### ACT No. XV of 1877.

(Passed on the 19th July 1877).

An Act for the Limitation of Suits, and for other purposes.

Whereas it is expedient to amend the law relating to the limitation of suits, appeals, and certain applications to Courts;

Preamble.

And whereas it is also expedient to provide rules for acquiring by possession the ownership of easements and other property; It is hereby enacted as follows:—

## PART I.

## PRELIMINARY.

Short title

1. This Act may be called "The Indian Limitation Act, 1877."

Extent of Act.

It extends to the whole of British India ; but nothing contained in sections two and three or in Parts II and III applies—

(a) to suits under the Indian Divorce Act, or

(b) to suits under Madras Regulation VI of 1831 ;

Commencement.

And it shall come into force on the first day of October 1877.

Repeal of Acts.

2. On and from that day the Acts mentioned in the first schedule hereto annexed shall be repealed to the extent therein specified.

But all references to the Indian Limitation Act, 1871, shall be read as if made to this Act ; and nothing herein or in that Act contained shall be deemed to affect any title acquired, or to revive any right to sue barred, under that Act or under any enactment thereby repealed ; and nothing herein contained shall be deemed to affect the Indian Contract Act, Section 25.

References to Act IX of 1871. Saving of titles already acquired. Saving of Act IX of 1872, Section 25.

Notwithstanding anything herein contained, any suit mentioned in No. 146 of the second schedule hereto annexed may be brought within five years next after the said first day of October 1877, unless where the period prescribed for such suit by the said Indian Limitation Act, 1871, shall have expired before the completion of the said five years ; and any other suit for which the period of limitation prescribed by this Act is shorter than the period of limitation prescribed by the said Indian Limitation Act, 1871, may be brought within two years next after the said first day of October 1877, unless where the period prescribed for such suit by the same Act shall have expired before the completion of the said two years.

Suits for which period prescribed by this Act is shorter than that prescribed by Act IX of 1871.

Interpretation clause.

3. In this Act, unless there be something repugnant in the subject or context—

'plaintiff' includes also any person from or through whom a plaintiff derives his right to sue ; 'applicant' includes also any person from or through whom an applicant derives his right to apply ; and 'defendant' includes also any person from or through whom a defendant derives his liability to be sued :

'easement' includes also a right, not arising from contract, by which one person is entitled to remove and appropriate for his own profit any part of the soil belonging to another, or any thing growing in, or attached to, or subsisting upon the land of another :

'bill of exchange' includes also a hundi and a cheque :

'bond' includes any instrument whereby a person obliges himself to pay money to another, on condition that the obligation shall be void if a specified act is performed, or is not performed, as the case may be :

'promissory note' means any instrument whereby the maker engages absolutely to pay a specified sum of money to another at a time therein limited, or on demand, or at sight :

'trustee' does not include a benámídar, a mortgagee remaining in possession after the mortgage has been satisfied, or a wrong-doer in possession without title :

'suit' does not include an appeal or an application :

'registered' means duly registered in British India under the law for the registration of documents in force at the time and place of executing the document, or signing the decree or order, referred to in the context :

'foreign country' means any country other than British India :

and nothing shall be deemed to be done in 'good faith' which is not done with due care and attention.

## PART II.

### LIMITATION OF SUITS, APPEALS AND APPLICATIONS.

4. Subject to the provisions contained in sections five to twenty-five (inclusive), every suit instituted, appeal presented, and application made after the period of limitation prescribed therefor by the second schedule hereto annexed, shall be dismissed, although limitation has not been set up as a defence.

*Explanation.*—A suit is instituted in ordinary cases when the plaint is presented to the proper officer ; in the case of a pauper, when his application for leave to sue as a pauper is filed ; and in the case of a claim against a company which is being wound up by the Court, when the claimant first sends in his claim to the official liquidator.

#### *Illustrations*

(a).—A suit is instituted after the prescribed period of limitation Limitation is not set up as a defence, and judgment is given for the plaintiff The defendant appeals The appellate Court must dismiss the suit

(b).—An appeal presented after the prescribed period is admitted and registered The appeal shall, nevertheless, be dismissed

5. If the period of limitation prescribed for any suit, appeal, or application expires on a day when the Court is closed, the suit, appeal, or application may be instituted, presented, or made on the day that the Court re-opens :

Any appeal or application for a review of judgment may be admitted after the period of limitation prescribed therefor, when the appellant or applicant satisfies the Court that he had sufficient cause for not presenting the appeal or making the application within such period.

6. When, by any special or local law now or hereafter in force in British India, a period of limitation is specially prescribed for any suit, appeal, or application, nothing herein contained shall affect or alter the period so prescribed.

7. If a person entitled to institute a suit or make an application be, at the time from which the period of limitation is to be reckoned, a minor, or insane, or an idiot, he may institute the suit or make the application within the same period after the disability has ceased, as would otherwise have been allowed from the time prescribed therefor in the third column of the second schedule hereto annexed.

When he is, at the time from which the period of limitation is to be reckoned, affected by two such disabilities, or when, before his disability has ceased, he is affected by another disability, he may institute the suit or make the application within the same period after both disabilities have ceased as would otherwise have been allowed from the time so prescribed.

When his disability continues up to his death, his legal representative may institute the suit or make the application within the same period after the death as would otherwise have been allowed from the time so prescribed.

When such representative is at the date of the death affected by any such disability, the rules contained in the first two paragraphs of this section shall apply.

Nothing in this section applies to suits to enforce rights of pre-emption, or shall be deemed to extend, for more than three years from the cessation of the disability or the death of the person affected thereby, the period within which any suit must be instituted or application made.

#### *Illustrations*

(a).—The right to sue for the hire of a boat accrues to A during his minority. He attains majority four years after such accrual. He may institute his suit at any time within three years from the date of his attaining majority.

(b).—A, to whom a right to sue for a legacy has accrued during his minority, attains majority eleven years after such accrual. A has, under the ordinary law, only one year remaining within which to sue. But under this section an extension of two years will be allowed him, making in all a period of three years from the date of his attaining majority within which he may bring his suit.

(c).—A right to sue accrues to Z during his minority. After the accrual, but while Z is still a minor, he becomes insane. Time runs against Z from the date when his insanity and minority cease.

(d).—A right to sue accrues to X during his minority. X dies before attaining majority, and is succeeded by Y, his minor son. Time runs against Y from the date of his attaining majority.

(e).—A right to sue for an hereditary office accrues to A, who at the time is insane. Six years after the accrual A recovers his reason. A has six years, under the ordinary law, from the date when his insanity ceased within which to institute a suit. No extension of time will be given him under this section.

(f).—A right to sue as landlord to recover possession from a tenant accrues to A who is an idiot. A dies three years after the accrual, his idiocy continuing up to the date of his death. A's representative in interest has, under the ordinary law, nine years from the date of A's death within which to bring a suit. This section does not extend that time, except where the representative is himself under disability when the representation devolves upon him.

8. When one of several joint creditors or claimants is under any such disability, and when a discharge can be given without the concurrence of such person, time will run against them all: but where no such discharge can be given, time will not run as against any of them until one of them becomes capable of giving such discharge without the concurrence of the others.

#### *Illustrations*

(a).—A incurs a debt to a firm of which B, C, and D are partners. B is insane and C is a minor. D can give a discharge of the debt without the concurrence of B and C. Time runs against B, C and D.

(b).—A incurs a debt to a firm of which E, F, and G are partners. E and F are insane and G is a minor. Time will not run against any of them until either E or F becomes sane, or G attains majority.

9. When once time has begun to run, no subsequent disability or inability to sue stops it:

Continuous running of time.

Provided that where letters of administration to the estate of a creditor have been granted to his debtor, the running of the time prescribed for a suit to recover the debt shall be suspended while the administration continues.

10. Notwithstanding anything hereinbefore contained, no suit against a person in whom property has become vested in trust for any specific purpose, or against his legal representatives or assigns (not being assigns for valuable consideration), for the purpose of following in his or their hands such property, shall be barred by any length of time.

Suits on foreign contracts 11. Suits instituted in British India on contracts entered into in a foreign country are subject to the rules prescribed by this Act.

No foreign rule of limitation shall be a defence to a suit instituted in British India on a contract entered into in a foreign country, unless the rule has extinguished the contract, and the parties were domiciled in such country during the period prescribed by such rule.

### PART III.

#### COMPUTATION OF PERIOD OF LIMITATION.

Exclusion of day on which right to sue accrues. 12. In computing the period of limitation prescribed for an appeal or application, the day from which such period is to be reckoned shall be excluded.

In computing the period of limitation prescribed for an appeal, an application for leave to appeal as a pauper and an application for a review of judgment, the day on which the judgment complained of was pronounced and the time requisite for obtaining a copy of the decree, sentence, or order appealed against or sought to be reviewed, shall be excluded.

Where a decree is appealed against or sought to be reviewed, the time requisite for obtaining a copy of the judgment on which it is founded shall also be excluded.

In computing the period of limitation prescribed for an application to set aside an award, the time requisite for obtaining a copy of the award shall be excluded.

13. In computing the period of limitation prescribed for any suit, the time during which the defendant has been absent from British India shall be excluded.

14. In computing the period of limitation prescribed for any suit, the time during which the plaintiff has been prosecuting with due diligence another civil proceeding, whether in a Court of first instance or in a Court of appeal, against the defendant, shall be excluded, where the proceeding is founded upon the same cause of action, and is prosecuted in good faith in a Court which from defect of jurisdiction, or other cause of a like nature, is unable to entertain it.

**In computing the period of limitation prescribed for a suit, proceedings in which have been stayed by order under the Code of Civil Procedure, Section 20, the interval between the institution of the suit and the date of so staying proceedings, and the time requisite for going from the Court in which proceedings are stayed to the Court in which the suit is re-instituted, shall be excluded.**

*Like exclusion in case of order under Civil Procedure Code, S. 20*

**In computing the period of limitation prescribed for any application, the time during which the applicant has been making another application for the same relief shall be excluded, where the last-mentioned application is made in good faith to a Court which from defect of jurisdiction, or other cause of a like nature, is unable to grant it.**

*Like exclusion in case of application*

*Explanation 1.*—In excluding the time during which a former suit or application was pending or being made, the day on which that suit or application was instituted or made, and the day on which the proceeding therein ended, shall both be counted.

*Explanation 2*—A plaintiff resisting an appeal presented on the ground of want of jurisdiction shall be deemed to be prosecuting a suit within the meaning of this section.

**15. In computing the period of limitation prescribed for any suit, the institution of which has been stayed by injunction or order, the time of the continuance of the injunction or order, the day on which it was issued or made, and the day on which it was withdrawn, shall be excluded.**

*Exclusion of time during which commencement of suit is stayed by injunction or order.*

**16. In computing the period of limitation prescribed for a suit for possession by a purchaser at a sale in execution of a decree, the time during which the judgment-debtor has been prosecuting a proceeding to set aside the sale shall be excluded.**

*Exclusion of time during which judgment-debtor is attempting to set aside execution sale.*

**17. When a person who would, if he were living, have a right to institute a suit or make an application, dies before the right accrues, the period of limitation shall be computed from the time when there is a legal representative of the deceased capable of instituting or making such suit or application.**

*Effect of death before right to sue accrues.*

When a person against whom, if he were living, a right to institute a suit or make an application would have accrued dies before the right accrues, the period of limitation shall be computed from the time when there is a legal representative of the deceased against whom the plaintiff may institute or make such suit or application.

Nothing in the former part of this section applies to suits to enforce rights of pre-emption or to suits for the possession of immoveable property or of an hereditary office.

**18. When any person having a right to institute a suit or make an application has, by means of fraud, been kept from the knowledge of such right or of the title on which it is founded,**

*Effect of fraud*

or where any document necessary to establish such right has been fraudulently concealed from him,

the time limited for instituting a suit or making an application

- (a) against the person guilty of the fraud or accessory thereto, or
- (b) against any person claiming through him otherwise than in good faith and for a valuable consideration,

shall be computed from the time when the fraud first became known to the person injuriously affected thereby, or, in the case of the concealed document, when he first had the means of producing it or compelling its production.

19. If, before the expiration of the period prescribed for a suit or application in respect of any property or right, an acknowledgment of liability in respect of such property or right has been made in writing signed by the party against whom such property or right is claimed, or by some person through whom he derives title or liability, a new period of limitation, according to the nature of the original liability, shall be computed from the time when the acknowledgment was so signed.

Effect of acknowledgment in writing

When the writing containing the acknowledgment is undated, oral evidence may be given of the time when it was signed; but oral evidence of its contents shall not be received.

*Explanation 1.*—For the purposes of this section an acknowledgment may be sufficient, though it omits to specify the exact nature of the property or right, or avers that the time for payment, delivery, performance, or enjoyment has not yet come, or is accompanied by a refusal to pay, deliver, perform, or permit to enjoy, or is coupled with a claim to a set-off, or is addressed to a person other than the person entitled to the property or right.

*Explanation 2.*—In this section “signed” means signed either personally or by an agent duly authorized in this behalf.

20. When interest on a debt or legacy is, before the expiration of the prescribed period, paid as such by the person liable to pay the debt or legacy, or by his agent duly authorized in this behalf,

Effect of payment of interest as such

or when part of the principal of a debt is, before the expiration of the prescribed period, paid by the debtor or by his agent duly authorized in this behalf,

Effect of part payment of principal.

a new period of limitation according to the nature of the original liability, shall be computed from the time when the payment was made:

Provided that in the case of part-payment of the principal of a debt, the fact of the payment appears in the handwriting of the person making the same.

Where mortgaged land is in the possession of the mortgagee, the receipt of the produce of such land shall be deemed to be a payment for the purpose of this section.

Effect of receipt of produce of mortgaged land.

21. Nothing in Sections 19 and 20 renders one of several joint contractors, partners, executors, or mortgagees chargeable by reason only of a written acknowledgment signed, or of a payment made by, or by the agent of, any other or others of them.

One of several joint contractors, &c, not chargeable by reason of acknowledgment or payment made by another of them.

22. When, after the institution of a suit, a new plaintiff or defendant is substituted or added, the suit shall, as regards him, be deemed to have been instituted when he was so made a party:

Effect of substituting or adding new plaintiff or defendant.



Provided that, when a plaintiff dies, and the suit is continued by his legal representative, it shall, as regards him, be deemed to have been instituted when it was instituted by the deceased plaintiff :

Proviso where original plaintiff dies

Provided also, that, when a defendant dies, and the suit is continued against his legal representative, it shall, as regards him, be deemed to have been instituted when it was instituted against the deceased defendant.

Proviso where original defendant dies.

23. In the case of a continuing breach of contract, and in the case of a continuing wrong independent of contract, a fresh period of limitation begins to run at every moment of the time during which the breach or the wrong, as the case may be, continues.

Continuing breaches and wrongs

24. In the case of a suit for compensation for an act which does not give rise to a cause of action unless some specific injury actually results therefrom, the period of limitation shall be computed from the time when the injury results.

Suit for compensation for act not actionable without special damage

#### *Illustrations*

(a).—A owns the surface of a field B owns the subsoil B digs coal thereon without causing any immediate apparent injury to the surface, but at last the surface subsides The period of limitation in the case of a suit by A against B runs from the time of the subsidence

(b).—A speaks and publishes of B slanderous words not actionable in themselves without special damage caused thereby C in consequence refuses to employ B as his clerk The period of limitation in the case of a suit by B against A for compensation for the slander does not commence till the refusal.

Computation of time mentioned in instruments

25. All instruments shall, for the purposes of this Act, be deemed to be made with reference to the Gregorian calendar.

#### *Illustrations.*

(a).—A Hindu makes a promissory note bearing a Native date only, and payable four months after date The period of limitation applicable to a suit on the note runs from the expiry of four months after date computed according to the Gregorian calendar.

(b).—A Hindu makes a bond, bearing a Native date only, for the repayment of money within one year. The period of limitation applicable to a suit on the bond runs from the expiry of one year after date computed according to the Gregorian calendar.

## PART IV.

### ACQUISITION OF OWNERSHIP BY POSSESSION.

26. Where the access and use of light or air to and for any building have been peaceably enjoyed therewith, as an easement, and as of right, without interruption, and for twenty years,

Acquisition of right to easement

and where any way or watercourse, or the use of any water, or any other easement (whether affirmative or negative) has been peaceably and openly enjoyed by any person claiming title thereto as an easement and as of right, without interruption, and for twenty years,

the right to such access and use of light or air, way, watercourse, use of water, or other easement, shall be absolute and indefeasible.

Each of the said periods of twenty years shall be taken to be a period ending within two years next before the institution of the suit wherein the claim to which such period relates is contested.

**Explanation.**—Nothing is an interruption within the meaning of this section, unless where there is an actual discontinuance of the possession or enjoyment by reason of an obstruction by the act of some person other than the claimant, and unless such obstruction is submitted to or acquiesced in for one year after the claimant has notice thereof, and of the person making or authorizing the same to be made.

*Illustrations.*

(a).—A suit is brought in 1881 for obstructing a right of way. The defendant admits the obstruction, but denies the right of way. The plaintiff proves that the right was peaceably and openly enjoyed by him, claiming title thereto as an easement and as of right, without interruption, from 1st January 1860 to 1st January 1880. The plaintiff is entitled to judgment.

(b).—In a like suit also brought in 1881 the plaintiff merely proves that he enjoyed the right in manner aforesaid from 1858 to 1878. The suit shall be dismissed, as no exercise of the right by actual user has been proved to have taken place within two years next before the institution of the suit.

(c).—In a like suit the plaintiff shows that the right was peaceably and openly enjoyed by him for twenty years. The defendant proves that the plaintiff on one occasion during the twenty years had asked his leave to enjoy the right. The suit shall be dismissed.

**27.** Provided that, when any land or water upon, over, or from which

Exclusion in favour of any easement has been enjoyed or derived, has been reversioner of servient held under or by virtue of any interest for life or any tenement term of years exceeding three years from the granting thereof, the time of the enjoyment of such easement during the continuance of such interest or term shall be excluded in the computation of the said last mentioned period of twenty years, in case the claim is, within three years next after the determination of such interest or term, resisted by the person entitled, on such determination, to the said land or water.

*Illustration*

A sues for a declaration that he is entitled to a right of way over B's land. A proves that he has enjoyed the right for twenty-five years; but B shows that during ten of these years C, a Hindu widow, had a life interest in the land, that on C's death B became entitled to the land, and that within two years after C's death he contested A's claim to the right. The suit must be dismissed, as A, with reference to the provisions of this section, has only proved enjoyment for fifteen years.

**28.** At the determination of the period hereby limited to any person  
Extinguishment of right for instituting a suit for possession of any property to property. his right to such property shall be extinguished.

THE FIRST SCHEDULE

Number and year of Acts	Title.	Extent of repeal.
X of 1865 ... ..	The Indian Succession Act.	In Section 321 the words "within two years after the death of the testator, or one year after the legacy has been paid."
IX of 1871 ... ..	The Indian Limitation Act, 1871.	The whole.
I of 1877 ... ..	The Code of Civil Procedure.	Section 599, and in Section 601 the words "within thirty days from the date of the order."

## THE SECOND SCHEDULE.

(See Section 4)

## FIRST DIVISION : SUITS

Description of suit.	Period of limitation	Time from which period begins to run
	<i>Part I.—Thirty days</i>	
1.—To contest an award of the Board of Revenue under Act No XXIII of 1863 (to provide for the adjudication of claims to waste-lands).	Thirty days	When notice of the award is delivered to the plaintiff.
	<i>Part II—Ninety days.</i>	
2.—For compensation for doing, or for omitting to do, an act alleged to be in pursuance of any enactment in force for the time being in British India	Ninety days	When the act or omission takes place
	<i>Part III—Six months</i>	
3.—Under the Specific Relief Act, 1877, Section 9, to recover possession of immoveable property	Six months	When the dispossession occurs
4.—Under Act No IX of 1860 (to provide for the speedy determination of certain disputes between workmen engaged in Railway and other public works and their employers), section one	Ditto	When the wages, hire, or price of work claimed accrue or accrues due.
5.—Under the Code of Civil Procedure, chapter XXXIX (of summary procedure on negotiable instruments).	Ditto	When the instrument sued upon becomes due and payable.
	<i>Part IV—One year</i>	
6.—Upon a Statute, Act, Regulation, or By-law, for a penalty or forfeiture	One year	When the penalty or forfeiture is incurred
7.—For the wages of a household servant, artisan, or labourer not provided for by this schedule, No 4.	Ditto	When the wages accrue due.
8.—For the price of food or drink sold by the keeper of a hotel, tavern, or lodging house.	Ditto	When the food or drink is delivered
9.—For the price of lodging	Ditto	When the price becomes payable
10.—To enforce a right of pre-emption, whether the right is founded on law, or general usage, or on special contract.	Ditto	When the purchaser takes under the sale sought to be impeached, physical possession of the whole of the property sold, or, where the subject of the sale does not admit of physical possession, when the instrument of sale is registered.

## THE SECOND SCHEDULE—continued.

## FIRST DIVISION : SUITS—continued.

Description of suit.	Period of limitation.	Time from which period begins to run.
	<i>Part IV—One year—continued.</i>	
11.—By a person against whom an order is passed under Section 280, 281, 282 or 335 of the Code of Civil Procedure, to establish his right to, or to the present possession of, the property comprised in the order.	One year ...	The date of the order.
12.—To set aside any of the following sales :— (a) sale in execution of a decree of a Civil Court ; (b) sale in pursuance of a decree or order of a Collector or other officer of revenue ; (c) sale for arrears of Government revenue, or for any demand recoverable as such arrears ; (d) sale of a patni taluq sold for current arrears of rent	Ditto ...	When the sale is confirmed, or would otherwise have become final and conclusive had no such suit been brought.
<i>Explanation.</i> —In this clause 'patni' includes any intermediate tenure saleable for current arrears of rent		
13.—To alter or set aside a decision or order of a Civil Court in any proceeding other than a suit	Ditto ...	The date of the final decision or order in the case by a Court competent to determine it finally
14.—To set aside any act or order of an officer of Government in his official capacity, not herein otherwise expressly provided for	Ditto ...	The date of the act or order.
15.—Against Government to set aside any attachment, lease, or transfer of immoveable property by the revenue authorities for arrears of Government revenue	Ditto ...	When the attachment, lease or transfer is made.
16.—Against Government to recover money paid under protest in satisfaction of a claim made by the revenue authorities on account of arrears of revenue or on account of demands recoverable as such arrears	Ditto ...	When the payment is made.
17.—Against Government for compensation for land acquired for public purposes.	Ditto ...	The date of determining the amount of the compensation.
18.—Like suit for compensation when the acquisition is not completed	Ditto ...	The date of the refusal to complete.
19.—For compensation for false imprisonment	Ditto ...	When the imprisonment ends.

## THE SECOND SCHEDULE—continued.

## FIRST DIVISION : SUITS—continued.

Description of suit.	Period of limitation.	Time from which period begins to run.
<i>Part IV—One year—concluded.</i>		
20.—By executors, administrators, or representatives under Act No XII of 1855 <i>(to enable the executors, administrators or representatives to sue and be sued for certain wrongs)</i> .	One year ...	The date of the death of the person wronged
21.—By executors, administrators, or representatives under Act No XIII of 1855 <i>(to provide compensation to families for loss occasioned by the death of a person caused by actionable wrong)</i>	Ditto ...	The date of the death of the person killed.
22.—For compensation for any other injury to the person.	Ditto ..	When the injury is committed.
23.—For compensation for a malicious prosecution.	Ditto ...	When the plaintiff is acquitted, or the prosecution is otherwise terminated
24.—For compensation for libel ... ..	Ditto ..	When the libel is published
25.—For compensation for slander .. ..	Ditto ...	When the words are spoken, or, if the words are not actionable in themselves, when the special damage complained of results
26.—For compensation for loss of service occasioned by the seduction of the plaintiff's servant or daughter.	Ditto ...	When the loss occurs.
27.—For compensation for inducing a person to break a contract with the plaintiff	Ditto	The date of the breach.
28.—For compensation for an illegal, irregular, or excessive distress	Ditto ...	The date of the distress.
29.—For compensation for wrongful seizure of moveable property under legal process	Ditto ...	The date of the seizure
<i>Part V.—Two years.</i>		
30.—Against a carrier for compensation for losing or injuring goods	Two years ...	When the loss or injury occurs.
31.—Against a carrier for compensation for delay in delivering goods.	Ditto ..	When the goods ought to be delivered.
32.—Against one who, having a right to use property for specific purposes, perverts it to other purposes	Ditto ...	When the perversion first becomes known to the person injured thereby
33.—Under Act No. XII of 1855 <i>(to enable executors, administrators, or representatives to sue and be sued for certain wrongs)</i> , against an executor, administrator, or other representative	Ditto ...	When the wrong complained of is done.
34.—For the recovery of a wife ...	Ditto ...	When possession is demanded and refused.
35.—For the restitution of conjugal rights...	Ditto ...	When restitution is demanded and is refused by the husband or wife, being of full age and sound mind
36.—For compensation for any malfeasance, misfeasance, or nonfeasance, independent of contract, and not herein specially provided for.	Ditto ...	When the malfeasance, misfeasance, or nonfeasance takes place.

## THE SECOND SCHEDULE—continued.

## FIRST DIVISION : SUITS—continued.

Description of suit.	Period of limitation	Time from which period begins to run.
	<i>Part VI—Three years</i>	
37.—For compensation for obstructing a way or a watercourse	Three years ...	The date of the obstruction.
38.—For compensation for diverting a water-course	Ditto ..	The date of the diversion
39.—For compensation for trespass upon immoveable property	Ditto .	The date of the trespass.
40.—For compensation for infringing copy-right or any other exclusive privilege	Ditto .	The date of the infringement.
41.—To restrain waste	Ditto ..	When the waste begins.
42.—For compensation for injury caused by an injunction wrongfully obtained	Ditto ..	When the injunction ceases
43.—Under the Indian Succession Act, 1865, Section 320 or 321, or under the Probate and Administration Act, 1881, Section 139 or 140, to compel a refund by a person to whom an executor or administrator has paid a legacy or distributed assets	Ditto	The date of the payment or distribution
Noti.—As amended by Act V of 1891, S. 156.		
44.—By a ward who has attained majority, to set aside a sale by his guardian	Ditto	When the ward attains majority
45.—To contest an award under any of the following Regulations of the Bengal Code :— VII of 1822 ; IX of 1825 ; and IX of 1833	Ditto ...	The date of the final award or order in the case.
46.—By a party bound by such award to recover any property comprised therein	Ditto	The date of the final award or order in the case
47.—By any person bound by an order respecting the possession of property made under the Code of Criminal Procedure, Chapter XL, or the Bombay Mamlatdars' Courts Act, or by any one claiming under such person, to recover the property comprised in such order	Ditto .	The date of the final order in the case.
48.—For specific moveable property lost, or acquired by theft, or dishonest misappropriation or conversion, or for compensation for wrongfully taking or detaining the same	Ditto ...	When the person having the right to the possession of the property first learns in whose possession it is.
49.—For other specific moveable property, or for compensation for wrongfully taking or injuring or wrongfully detaining the same	Ditto ..	When the property is wrongfully taken or injured, or when the detainer's possession becomes unlawful
50.—For the hire of animals, vehicles, boats or household furniture	Ditto ...	When the hire becomes payable
51.—For the balance of money advanced in payment of goods to be delivered	Ditto	When the goods ought to be delivered
52.—For the price of goods sold and delivered, where no fixed period of credit is agreed upon.	Ditto ...	The date of the delivery of the goods
53.—For the price of goods sold and delivered to be paid for after the expiry of a fixed period of credit	Ditto ..	When the period of credit expires.
54.—For the price of goods sold and delivered to be paid for by a bill of exchange, no such bill being given.	Ditto ..	When the period of the proposed bill elapses.

## THE SECOND SCHEDULE—continued.

## FIRST DIVISION : SUITS—continued.

Description of suit.	Period of limitation.	Time from which period begins to run.
<i>Part VI.—Three years—contd.</i>		
55.—For the price of trees or growing crops sold by the plaintiff to the defendant where no fixed period of credit is agreed upon	Three years ...	The date of the sale.
56.—For the price of work done by the plaintiff for the defendant at his request, where no time has been fixed for payment.	Ditto ..	When the work is done.
57.—For money payable for money lent ...	Ditto ..	When the loan is made.
58.—Like suit when the lender has given a cheque for the money	Ditto ...	When the cheque is paid.
59.—For money lent under an agreement that it shall be payable on demand.	Ditto ..	When the loan is made.
60.—For money deposited under an agreement that it shall be payable on demand	Ditto ..	When the demand is made.
61.—For money payable to the plaintiff for money paid for the defendant	Ditto ..	When the money is paid.
62.—For money payable by the defendant to the plaintiff for money received by the defendant for the plaintiff's use.	Ditto ..	When the money is received
63.—For money payable for interest upon money due from the defendant to the plaintiff.	Ditto ...	When the interest becomes due.
64.—For money payable to the plaintiff for money found to be due from the defendant to the plaintiff on accounts stated between them.	Ditto ...	When the accounts are stated in writing, signed by the defendant or his agent duly authorised in this behalf, unless where the debt is, by a simultaneous agreement in writing signed as aforesaid, made payable at a future time, and then when that time arrives.
65.—For compensation for breach of a promise to do anything at a specified time or upon the happening of a specified contingency.	Ditto ...	When the time specified arrives or the contingency happens.
66.—On a single bond where a day is specified for payment.	Ditto ...	The day so specified.
67.—On a single bond where no such day is specified	Ditto ...	The date of executing the bond.
68.—On a bond subject to a condition	Ditto ...	When the condition is broken.
69.—On a bill of exchange or promissory note payable at a fixed time after date	Ditto ...	When the bill or note falls due.
70.—On a bill of exchange payable at sight, or after sight, but not at a fixed time	Ditto ...	When the bill is presented.
71.—On a bill of exchange accepted payable at a particular place	Ditto ...	When the bill is presented at that place.
72.—On a bill of exchange or promissory note payable at a fixed time after sight or after demand.	Ditto ...	When the fixed time expires.
73.—On a bill of exchange or promissory note payable on demand, and not accompanied by any writing restraining or postponing the right to sue.	Ditto ...	The date of the bill or note.

## THE SECOND SCHEDULE—continued.

## FIRST DIVISION : SUITS—continued.

Description of suit.	Period of limitation.	Time from which period begins to run.
	<i>Part VI—Three years—contd.</i>	
74.—On a promissory note or bond payable by instalments.	Three years ...	The expiration of the first term of payment, as to the part then payable ; and, for the other parts, the expiration of the respective terms of payment
75.—On a promissory note or bond payable by instalments, which provides that, if default be made in payment of one instalment, the whole shall be due	Ditto ...	When the first default is made, unless where the payee or obligee waives the benefit of the provision, and then when fresh default is made in respect of which there is no such waiver
76.—On a promissory note given by the maker to a third person to be delivered to the payee after a certain event should happen	Ditto ...	The date of the delivery to the payee.
77.—On a dishonoured foreign bill where protest has been made and notice given	Ditto ...	When the notice is given.
78.—By the payee against the drawer of a bill of exchange which has been dishonoured by non-acceptance.	Ditto	The date of the refusal to accept
79.—By the acceptor of an accommodation-bill against the drawer	Ditto ...	When the acceptor pays the amount of the bill.
80.—Suit on a bill of exchange, promissory note, or bond not herein expressly provided for.	Ditto ...	When the bill, note, or bond becomes payable.
81.—By a surety against the principal debtor.	Ditto ..	When the surety pays the creditor.
82.—By a surety against a co-surety	Ditto ..	When the surety pays anything in excess of his own share
83.—Upon any other contract to indemnify.	Ditto	When the plaintiff is actually damaged
84.—By an attorney or vakil for his costs of a suit or a particular business, there being no express agreement as to the time when such costs are to be paid	Ditto ...	The date of the termination of the suit or business, or (where the attorney or vakil properly discontinues the suit or business) the date of such discontinuance.
85.—For the balance due on a mutual, open and current account, where there have been reciprocal demands between the parties.	Ditto ...	The close of the year in which the last item admitted or proved is entered in the account ; such year to be computed as in the account.
86.—On a policy of insurance when the sum assured is payable immediately after proof of the death or loss has been given to or received by the insurers.	Ditto ...	When proof of the death or loss is given or received to or by the insurers, whether by or from the plaintiff or any other person.
87.—By the assured to recover premia paid under a policy voidable at the election of the insurers.	Ditto ...	When the insurers elect to avoid the policy.
88.—Against a factor for an account	Ditto ...	When the account is, during the continuance of the agency, demanded and refused, or where no such demand is made, when the agency terminates.



## THE SECOND SCHEDULE—continued.

## FIRST DIVISION : SUITS—continued.

Description of suit.	Period of limitation.	Time from which period begins to run.
	<i>Part VI—Three years—contd.</i>	
89.—By a principal against his agent for moveable property received by the latter and not accounted for.	Three years ...	When the account is, during the continuance of the agency, demanded and refused, or where no such demand is made, when the agency terminates
90.—Other suits by principals against agents for neglect or misconduct	Ditto ...	When the neglect or misconduct becomes known to the plaintiff.
91.—To cancel or set aside an instrument not otherwise provided for.	Ditto ..	When the facts entitling the plaintiff to have the instrument cancelled or set aside become known to him
92.—To declare the forgery of an instrument issued or registered	Ditto ...	When the issue or registration becomes known to the plaintiff.
93.—To declare the forgery of an instrument attempted to be enforced against the plaintiff.	Ditto ...	The date of the attempt.
94.—For property which the plaintiff has conveyed while insane.	Ditto ...	When the plaintiff is restored to sanity, and has knowledge of the conveyance.
95.—To set aside a decree obtained by fraud or for other relief on the ground of fraud	Ditto ...	When the fraud becomes known to the party wronged
96.—For relief on the ground of mistake	Ditto ..	When the mistake becomes known to the plaintiff.
97.—For money paid upon an existing consideration which afterwards fails.	Ditto ...	The date of the failure
98.—To make good out of the general estate of a deceased trustee the loss occasioned by a breach of trust	Ditto ...	The date of the trustee's death or, if the loss has not then resulted, the date of the loss.
99.—For contribution by a party who has paid the whole amount due under a joint decree, or by a sharer in a joint estate who has paid the whole amount of revenue due from himself and his co-sharers	Ditto ...	The date of the plaintiff's advance in excess of his own share
100.—By a co-trustee to enforce against the estate of a deceased trustee a claim for contribution	Ditto ...	When the right to contribution accrues.
101.—For a seaman's wages ... ..	Ditto ...	The end of the voyage during which the wages are earned.
102.—For wages not otherwise expressly provided for by this schedule	Ditto ...	When the wages accrue due
103.—By a Muhammadan for exigible dower ( <i>mu'ajjal</i> )	Ditto ...	When the dower is demanded and refused, or (where during the continuance of the marriage no such demand has been made) when the marriage is dissolved by death or divorce.
104.—By a Muhammadan for deferred dower ( <i>mu wajjal</i> ).	Ditto ..	When the marriage is dissolved by death or divorce.
105.—By a mortgagor after the mortgage has been satisfied, to recover surplus collections received by the mortgagee.	Ditto ...	When the mortgagor re-enters on the mortgaged property.
106.—For an account and a share of the profit of a dissolved partnership	Ditto ...	The date of the dissolution.

## THE SECOND SCHEDULE—continued.

## FIRST DIVISION : SUITS—continued

Description of suit.	Period of limitation.	Time from which period begins to run
<i>Part VI.—Three years—contd.</i>		
107.—By the manager of a joint estate of an undivided family for contribution in respect of a payment made by him on account of the estate	Three years ...	The date of the payment.
108.—By a lessor for the value of trees cut down by his lessee contrary to the terms of the lease	Ditto ...	When the trees are cut down.
109.—For the profits of immoveable property belonging to the plaintiff which have been wrongfully received by the defendant.	Ditto ..	When the profits are received, or, where the plaintiff has been dispossessed by a decree afterwards set aside on appeal, when he recovers possession
110.—For arrears of rent.	Ditto ...	When the arrears become due.
111.—By a vendor of immoveable property to enforce his lien for unpaid purchase money.	Ditto ...	The time fixed for completing the sale, or (where the title is accepted after the time fixed for completion) the date of the acceptance.
112.—For a call by a company registered under any Statute or Act.	Ditto ..	When the call is payable.
113.—For specific performance of a contract	Ditto .	The date fixed for the performance, or if no such date is fixed, when the plaintiff has notice that performance is refused.
114.—For the rescission of a contract ..	Ditto ..	When the facts entitling the plaintiff to have the contract rescinded first become known to him.
115.—For compensation for the breach of any contract, express or implied, not in writing registered, and not herein specially provided for.	Ditto	When the contract is broken, or (where there are successive breaches) when the breach in respect of which the suit is instituted occurs, or (where the breach is continuing) when it ceases.
<i>Part VII.—Six years</i>		
116.—For compensation for the breach of a contract in writing registered.	Six years ...	When the period of limitation would begin to run against a suit brought on a similar contract not registered.
117.—Upon a foreign judgment as defined in the Code of Civil Procedure.	Ditto .	The date of the judgment.
118.—To obtain a declaration that an alleged adoption is invalid, or never in fact took place	Ditto .	When the alleged adoption becomes known to the plaintiff.
119.—To obtain a declaration that an adoption is valid.	Ditto ...	When the rights of the adopted son as such are interfered with.
120.—Suit for which no period of limitation is provided elsewhere in this schedule.	Ditto ...	When the right to sue accrues.

## THE SECOND SCHEDULE—continued.

## FIRST DIVISION : SUITS—continued.

Description of suit.	Period of limitation	Time from which period begins to run
<i>Part VIII— Twelve years.</i>		
121.—To avoid incumbrances or under-tenures in an entire estate sold for arrears of Government revenue, or in a <i>pattā taluq</i> or other saleable tenare sold for arrears of rent	Twelve years ...	When the sale becomes final and conclusive.
122.—Upon a judgment obtained in British India, or a recognizance	Ditto ..	The date of the judgment or recognizance
123.—For a legacy or for a share of a residue bequeathed by a testator, or for a distributive share of the property of an intestate	Ditto ..	When the legacy or share becomes payable or deliverable
124.—For possession of an hereditary office	Ditto ...	When the defendant takes possession of the office adversely to the plaintiff. <i>Explanation</i> —An hereditary office is possessed when the profits thereof are usually received, or (if there are no profits) when the duties thereof are usually performed
125.—Suit during the life of a Hindu or Muhammadan female by a Hindu or Muhammadan who, if the female died at the date of instituting the suit, would be entitled to the possession of land, to have an alienation of such land made by the female declared to be void except for her life or until her remarriage	Ditto .	The date of the alienation.
126.—By a Hindu governed by the law of the Mitakshara to set aside his father's alienation of ancestral property.	Ditto ..	When the alienee takes possession of the property
127.—By a person excluded from joint-family property to enforce a right to share therein	Ditto ...	When the exclusion becomes known to the plaintiff.
128.—By a Hindu for arrears of maintenance	Ditto ...	When the arrears are payable
129.—By a Hindu for a declaration of his right to maintenance	Ditto ...	When the right is denied.
130.—For the resumption or assessment of rent-free land	Ditto ...	When the right to resume or assess the land first accrues.
131.—To establish a periodically recurring right.	Ditto ...	When the plaintiff is first refused the enjoyment of the right
132.—To enforce payment of money charged upon immoveable property <i>Explanation.</i> —The allowance and fees respectively called <i>malikana</i> and <i>haqq</i> s shall, for the purpose of this clause, be deemed to be money charged upon immoveable property.	Ditto .	When the money sued for becomes due.

THE SECOND SCHEDULE—*continued*FIRST DIVISION : SUITS—*continued.*

Description of suit.	Period of limitation.	Time from which period begins to run
	<i>Part VIII — Twelve years— continued</i>	
133.—To recover moveable property conveyed or bequeathed in trust, deposited or pawned, and afterwards bought from the trustee, depository, or pawnee for a valuable consideration.	Twelve years ...	The date of the purchase .
134.—To recover possession of immoveable property conveyed or bequeathed in trust or mortgaged, and afterwards purchased from the trustee or mortgagee for a valuable consideration	Ditto ...	Ditto
135.—Suit instituted in a Court not established by Royal Charter by a mortgagee for possession of immoveable property mortgaged	Ditto ..	When the mortgagor's right to possession determines.
136.—By a purchaser at a private sale for possession of immoveable property sold, when the vendor was out of possession at the date of the sale	Ditto .	When the vendor is first entitled to possession
137.—Like suit by a purchaser at a sale in execution of a decree, when the judgment-debtor was out of possession at the date of the sale	Ditto ..	When the judgment-debtor is first entitled to possession.
138.—By a purchaser of land at a sale in execution of a decree, for possession of the purchased land, when the judgment-debtor was in possession at the date of the sale	Ditto ..	The date of the sale
139.—By a landlord to recover possession from a tenant	Ditto ...	When the tenancy is determined
140.—By a remainderman, a reversioner (other than a landlord), or a devisee, for possession of immoveable property	Ditto ...	When his estate falls into possession
141.—Like suit by a Hindu or Muhammadan entitled to the possession of immoveable property on the death of a Hindu or Muhammadan female.	Ditto ...	When the female dies
142.—For possession of immoveable property when the plaintiff, while in possession of the property, has been dispossessed or has discontinued the possession	Ditto	The date of the dispossession or discontinuance.
143.—Like suit, when the plaintiff has become entitled by reason of any forfeiture or breach of condition.	Ditto .	When the forfeiture is incurred or the condition is broken
144.—For possession of immoveable property or any interest therein not hereby otherwise specially provided for	Ditto ..	When the possession of the defendant becomes adverse to the plaintiff.
	<i>Part IX — Thirty years.</i>	
145.—Against a depository or pawnee to recover moveable property deposited or pawned	Thirty years ..	The date of the deposit or pawn.
146.—Before a Court established by Royal Charter in the exercise of its ordinary original civil jurisdiction by a mortgagee to recover from the mortgagor the possession of immoveable property mortgaged.	Ditto ...	When any part of the principal or interest was last paid on account of the mortgage debt

THE SECOND SCHEDULE—*continued*.FIRST DIVISION : SUITS—*continued*.

Description of suit.	Period of limitation.	Time from which period begins to run
	<i>Par' X—Sixty years.</i>	
147.—By a mortgagee for foreclosure or sale	Sixty years ...	When the money secured by the mortgage becomes due.
148.—Against a mortgagee to redeem or to recover possession of immoveable property mortgaged	Ditto ...	When the right to redeem or to recover possession accrues Provided that all claims to redeem, arising under instruments of mortgage of immoveable property situate in British Burma, which have been executed before the first day of May 1863, shall be governed by the rules of limitation in force in that province immediately before the same day
149.—Any suit by or on behalf of the Secretary of State for India in Council.	Ditto ..	When the period of limitation would begin to run under this Act against a like suit by a private person.

## SECOND DIVISION : APPEALS.

Description of appeal	Period of limitation.	Time from which period begins to run.
150.—Under the Code of Criminal Procedure from a sentence of death passed by a Sessions Judge	Seven days ..	The date of the sentence
151.—From a decree or order of any of the High Courts of Judicature at Fort William, Madras, and Bombay, or the Chief Court of the Punjab, in the exercise of its original jurisdiction <small>NOTE.—As amended by Act XVII of 1877, S. 18.</small>	Twenty days ...	The date of the decree or order.
152.—Under the Code of Civil Procedure to the Court of a District Judge	Thirty days ...	The date of the decree or order appealed against.
153.—Under the same Code, Section 601, to a High Court.	Ditto ...	The date of the order refusing the certificate.
154.—Under the Code of Criminal Procedure to any Court other than a High Court	Ditto ...	The date of the sentence or order appealed against
155.—Under the same Code to a High Court except in the cases provided for by No 150 and No. 157	Sixty days ...	Ditto
156.—Under the Code of Civil Procedure to a High Court except in the cases provided for by No 151 and No. 153	Ninety days ...	The date of the decree or order appealed against.
157.—Under the Code of Criminal Procedure from a judgment of acquittal.	Six months ...	The date of the judgment appealed against.

THE SECOND SCHEDULE—*continued*.

## THIRD DIVISION : APPLICATIONS.

Description of application	Period of limitation	Time from which period begins to run.
158 — Under the Code of Civil Procedure to set aside an award	Ten days ...	When the award is submitted to the Court.
159 — For leave to appear and defend a suit under Chapter XXXIX of the Code of Civil Procedure.	Ditto ...	When the summons is served.
160 — For an order under Section 629 of the same Code restoring to the file a rejected application for review	Fifteen days ..	When the application for review is rejected.
160 A — For a review of judgment by a Provincial Court of Small Causes or by a Court invested with the jurisdiction of a Provincial Court of Small Causes when exercising that jurisdiction. <small>NOTE.—Art. 16A, has been added by Act IX of 1887, S. 36. See note to Art. 173A.</small>	Ditto ..	The date of the decree or order.
162 — For a review of judgment by any of the High Courts of Judicature at Fort William, Madras, and Bombay, or the Chief Court of the Punjab, in the exercise of its original jurisdiction <small>NOTE.—As amended by Act XVII of 1877, S. 18.</small>	Twenty days ..	The date of the decree or order
163 — By a plaintiff for an order to set aside a dismissal by default	Thirty days .	The date of the dismissal
164 — By a defendant for an order to set aside a judgment <i>ex parte</i>	Ditto ...	The date of executing any process for enforcing the judgment
165 — Under the Code of Civil Procedure, by a person dispossessed of immovable property, and disputing the right of the decreeholder or purchaser at a sale in execution of a decree to be put into possession	Ditto ..	The date of the dispossession.
166 — To set aside a sale in execution of a decree, on the ground of irregularity in publishing or conducting the sale, or on the ground that the decreeholder has purchased without the permission of the Court <small>NOTE.—As amended by Act XII of 1879.</small>	Ditto ...	The date of the sale.
167 — Complaining of resistance or obstruction to delivery of possession of immovable property decreed or sold in execution of a decree, or of dispossession in the delivery of possession to the decreeholder or the purchaser of such property	Ditto ..	The date of the resistance, obstruction, or dispossession.
168.—For re-admission of an appeal dismissed for want of prosecution	Ditto ...	The date of the dismissal.
169.—For a re-hearing of an appeal heard <i>ex-parte</i> in the absence of the respondent	Ditto ...	The date of the decree in appeal
170.—For leave to appeal as a pauper ..	Ditto ...	The date of the decree appealed against.
171.—Under Section 371 of the Code of Civil Procedure, or under that section and Section 582 of the same Code, for an order to set aside an order for abatement or dismissal <small>NOTE.—Art. 171 is as enacted by Act VII of 1888.</small>	Sixty days ...	The date of the order for abatement or dismissal.

## THE SECOND SCHEDULE—continued.

## THIRD DIVISION: APPLICATIONS—continued

Description of application.	Period of limitation	Time from which period begins to run.
172.—By a purchaser at an execution sale to set aside the sale on the ground that the person whose interest in the property purported to be sold had no saleable interest therein.	Sixty days ...	The date of the sale.
173.—For a review of judgment, except in the cases provided for by No 160 A and No. 162.  NOTE.—Art. 173 is as amended by Act IX of 1887, Section 36.	Ninety days ...	The date of the decree or order.
173A.—For the issue of a notice under Section 258 of the same Code to show cause why the payment or adjustment therein mentioned should not be recorded as certified  NOTE.—As amended by Act XII of 1879 and Act VII of 1888. Before the enactment of the latter Act, the above article was No. 161.	Ditto	When the payment or adjustment is made.
174.—By a creditor of an insolvent judgment-debtor under Section 353 of the Code of Civil Procedure	Ditto ...	The date of the publication of the schedule
175.—For payment of the amount of a decree by instalments.	Six months ...	The date of the decree
175A.—Under Section 365 of the Code of Civil Procedure by the legal representative of a deceased plaintiff, or under that section and Section 582 of the same Code by the legal representative of a deceased plaintiff-appellant or defendant-appellant.	Ditto	The date of the death of the deceased plaintiff or of the deceased plaintiff appellant or defendant-appellant.
175B.—Under Section 366 of the Code of Civil Procedure by a defendant, or under that section and Section 582 of the same Code by a plaintiff-respondent or defendant-respondent	Ditto	The date of the death of the deceased plaintiff or of the deceased defendant-appellant or plaintiff-appellant.
175C.—Under Section 368 of the Code of Civil Procedure to have the legal representative of a deceased defendant made a defendant, or under that section and Section 582 of the same Code to have the legal representative of a deceased plaintiff-respondent or defendant-respondent made a plaintiff-respondent or defendant-respondent.  NOTE.—Arts. 175 A, 175 B, and 175 C, have been added by Act VII of 1888.	Ditto	The date of the death of the deceased defendant or of the deceased plaintiff-respondent or defendant-respondent.
176.—Under the Code of Civil Procedure, Section 516 or 525, that an award be filed in Court	Ditto ...	The date of the award.
177.—For the admission of an appeal to Her Majesty in Council	Ditto ...	The date of the decree appealed against.
178.—Applications for which no period of limitation is provided elsewhere in this schedule, or by the Code of Civil Procedure, Section 230.	Three years ..	When the right to apply accrues

## THE SECOND SCHEDULE—continued.

## THIRD DIVISION: APPLICATIONS—continued.

Description of application.	Period of limitation.	Time from which period begins to run.
<p>179.—For the execution of a decree or order of any Civil Court not provided for by No. 180 or by the Code of Civil Procedure, Section 230.</p>	<p>Three years ; or where a certified copy of the decree or order has been registered, six years.</p>	<ol style="list-style-type: none"> <li>1. The date of the decree or order, or</li> <li>2. (where there has been an appeal) the date of the final decree or order of the Appellate Court, or</li> <li>3. (where there has been a review of judgment) the date of the decision passed on the review, or</li> <li>4. (where the application next hereinafter mentioned has been made) the date of applying in accordance with law to the proper Court for execution, or to take some step in aid of execution, of the decree or order, or</li> <li>5. (where the notice next hereinafter mentioned has been issued) the date of issuing a notice under the Code of Civil Procedure, Section 248, or</li> <li>6. (where the application is to enforce any payment which the decree or order directs to be made at a certain date) such date.*</li> </ol> <p><i>Explanation I.</i>—Where the decree or order has been passed severally in favour of more persons than one, distinguishing portions of the subject-matter as payable or deliverable to each, the application mentioned in clause 4 of this Number shall take effect in favour only of such of the said persons or their representatives as it may be made by. But when the decree or order has been passed jointly in favour of more persons than one, such application, if made by any one or more of them, or by his or their representatives, shall take effect in favour of them all.</p> <p>Where the decree or order has been passed severally against more persons than one, distinguishing portions of the subject-matter as payable or deliverable by each, the application shall take effect against only such of the said</p>

\* As amended by Act XII of 1879.



## THE SECOND SCHEDULE—continued.

## THIRD DIVISION : APPLICATIONS—continued

Description of application.	Period of limitation	Time from which period beigns to run
<p>180.—To enforce a judgment, decree, or order of any Court established by Royal Charter in the exercise of its ordinary original civil jurisdiction, or an order of Her Majesty in Council.</p>	Twelve years	<p>persons or their representatives as it may be made against. But where the decree or order has been passed jointly against more persons than one, the application, if made against any one or more of them, or against his or their representatives, shall take effect against them all.</p> <p><i>Explanation II</i> — “ Proper Court ” means the Court whose duty it is (whether under Section 226 or 227 of the Code of Civil Procedure or otherwise) to execute the decree or order.</p> <p>When a present right to enforce the judgment, decree, or order accrues to some person capable of releasing the right :</p> <p>Provided that when the judgment, decree, or order has been revived, or some part of the principal money secured thereby, or some interest on such money has been paid, or some acknowledgment of the right thereto has been given in writing, signed by the person liable to pay such principal or interest, or his agent, to the person entitled thereto or his agent, the twelve years shall be computed from the date of such revivor, payment or acknowledgment, or the latest of such revivors, payments or acknowledgments, as the case may be</p>

## ACT No I of 1878.

(Passed on the 7th January 1878).

An Act to amend the law relating to Opium.

Preamble.

Whereas it is expedient to amend the law relating to opium ; It is hereby enacted as follows:—

Short title.

1. This Act may be called “The Opium Act, 1878;”

It shall extend to such local areas as the Governor-General in Council may, by notification in the *Gazette of India*, from time to time direct ;

Local extent

And it shall come into force in each of such areas on such day as the Governor-General in Council in like manner directs in this behalf.

Commencement

NOTE.—In exercise of the powers conferred by the Opium Act, 1878, the Governor-General in Council directs that the said Act shall come into force in the territories administered by the Lieutenant-Governor of the Punjab on the 1st day of April 1880 — (*Government of India Notification No. 6, dated 3rd January 1880*)

2. The enactments mentioned in the schedule hereto annexed shall be repealed to the extent specified in the third column of the said schedule :

Repeal of enactments

And in Acts No. XI of 1849, No. XXI of 1856, and No. X of 1871, and in Bengal Act No. II of 1876, the words “intoxicating drugs” (wherever they occur) shall include opium.

Amendment of Acts.

Amendment of Act VII of 1836, S. 1.

The reference made to Bombay Regulations XXI of 1827 and XX of 1830 in Act No. VII of 1836, shall be read as if made to the corresponding sections of this Act.

Interpretation-clause

3. In this Act, unless there be something repugnant in the subject or context—

“Opium” includes also poppy-heads, preparations or admixtures of opium, and intoxicating drugs prepared from the poppy:

“Magistrate” means, in the Presidency-towns, a Presidency Magistrate, and elsewhere a Magistrate of the first class, or (when specially empowered by the Local Government to try cases under this Act) a Magistrate of the second class:

“Import” means to bring into the territories administered by any Local Government from sea, or from foreign territory, or from a territory administered by any other Local Government :

“Export” means to take out of the territories administered by any Local Government to sea, or to any foreign territory, or to any territory administered by another Local Government :

“Transport” means to remove from one place to another within the territories administered by the same Local Government .

4. Except as permitted by this Act, or by any other enactment relating to opium for the time being in force, or by rules framed under this Act or under any such enactment, no one shall—

Prohibition of poppy-cultivation and possession, &c., of opium

- (a) cultivate the poppy ;
- (b) manufacture opium ;
- (c) possess opium ;
- (d) transport opium ;
- (e) import or export opium ; or
- (f) sell opium.

**5. The Local Government, with the previous sanction of the Governor-**

Power to make rules to  
permit such matters

General in Council, may, from time to time, by notification in the Local Gazette, make rules consistent with this Act, to permit absolutely or subject to the payment of duty or to any other conditions, and to regulate within the whole or any specified part of the territories administered by such Government, all or any of the following matters :—

- (a) the cultivation of the poppy ;
- (b) the manufacture of opium ;
- (c) the possession of opium ;
- (d) the transport of opium ;
- (e) the importation or exportation of opium ; and
- (f) the sale of opium, and the form of duties leviable on the sale of opium by retail :

Provided that no duty shall be levied under any such rule on any opium imported, and on which a duty is imposed by or under the law relating to sea-customs for the time being in force or under section six.

NOTE —For Rules made under this section, see Note (a) at end of Act

**6. The Governor-General in Council may, from time to time, by noti-**

Duty on opium imported  
by land.

fication in the *Gazette of India*, impose such duty as he thinks fit on opium or on any kind of opium imported by land into British India or into any specified part thereof, and may alter or abolish any duty so imposed.

NOTE —In exercise of the power conferred by Section 6 of the Opium Act, 1878, and in supersession of the Notification No. 1178, dated the 1st June, 1885, the Governor-General in Council directs that duty at the rate of Rs. 175 shall be levied on each chest of opium of 140½ lbs avoirdupois net weight imported into the Punjab —(*Government of India Notification No. 3049, dated 8th June 1888, Gazette of India of 9th idem, Part I, p. 269*).

Warehousing opium

**7. The Governor-General in Council may, by order notified in the *Gazette of India*,**

(a) authorize any Local Government to establish warehouses for opium legally imported into, or intended to be exported from, the territories administered by such Local Government, and

(b) cancel any such order.

So long as such order remains in force, the Local Government may, by notification published in the official Gazette,

(c) declare any place to be a warehouse for all or any opium legally imported, whether before or after the payment of any duty leviable thereon, into the territories administered by such Government, or into any specified part thereof, or intended to be exported thence, and

(d) cancel any such declaration.

An order under clause (b) shall cancel all previous declarations under clause (c) of this section relating to places in the territories to which such order refers.

So long as such declaration remains in force, the owner of all such opium shall be bound to deposit it in such warehouse.

**8. The Local Government, with the previous sanction of the Governor-**

Power to make rules re-  
lating to warehouses.

General in Council, may, from time to time, by notification in the Local Gazette, make rules consistent with this Act to regulate the safe custody of opium warehoused under section seven; the levy of fees for such warehousing ;

the removal of such opium for sale or exportation ; and the manner in which it shall be disposed of, if any duty or fees leviable on it be not paid within twelve months from the date of warehousing the same.

Penalty for illegal cultivation of poppy, &c

9 Any person who, in contravention of this Act, or of rules made and notified under section five or section eight,—

- (a) cultivates the poppy, or
- (b) manufactures opium, or
- (c) possesses opium, or
- (d) transports opium, or
- (e) imports or exports opium, or
- (f) sells opium, or
- (g) omits to warehouse opium or removes or does any act in respect of warehoused opium,

and any person who otherwise contravenes any such rule,

shall, on conviction before a Magistrate, be punished for each such offence with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both ;

and, where a fine is imposed, the convicting Magistrate shall direct the offender to be imprisoned in default of payment of the fine for a term which may extend to six months, and such imprisonment shall be in excess of any other imprisonment to which he may have been sentenced.

10. In prosecutions under section nine, it shall be presumed, until the contrary is proved, that all opium for which the accused person is unable to account satisfactorily is opium in respect of which he has committed an offence under this Act.

Presumption in prosecutions under section nine

Confiscation of opium.

11 In any case in which an offence under section nine has been committed—

- (a) the poppy so cultivated ;
- (b) the opium in respect of which any offence under the same section has been committed ;
- (c) where, in the case of an offence under clause (d) or (e) of the same section, the offender is transporting, importing, or exporting any opium exceeding the quantity (if any) which he is permitted to transport, import, or export, as the case may be, the whole of the opium which he is transporting, importing, or exporting ;
- (d) where, in the case of an offence under clause (f) of the same section, the offender has in his possession any opium other than the opium in respect of which the offence has been committed, the whole of such other opium, shall be liable to confiscation.

The vessels, packages and coverings in which any opium liable to confiscation under this section is found, and the other contents (if any) of the vessel or package in which such opium may be concealed, and the animals and conveyances used in carrying it, shall likewise be liable to confiscation.

12. When the offender is convicted, or when the person charged with an offence in respect of any opium is acquitted, but the Magistrate decides that the opium is liable to confiscation, such confiscation may be ordered by the Magistrate.

Order of confiscation by whom to be made.

Whenever confiscation is authorised by this Act, the officer ordering it may give the owner of the thing liable to be confiscated an option to pay, in lieu of confiscation, such fine as the officer thinks fit.

When an offence against this Act has been committed, but the offender is not known or cannot be found, or when opium not in the possession of any person cannot be satisfactorily accounted for, the case shall be enquired into and determined by the Collector of the district or Deputy Commissioner, or by any other officer authorized by the Local Government in this behalf, either personally or in right of his office, who may order such confiscation: Provided that no such order shall be made until the expiration of one month from the date of seizing the things intended to be confiscated, or without hearing the persons (if any) claiming any right thereto, and the evidence (if any) which they produce in support of their claims.

13. The Local Government may, with the previous sanction of the Governor-General in Council, from time to time, by notification in the Local Gazette, make rules consistent with this Act to regulate—

Power to make rules, regarding disposal of things confiscated and rewards

- (a) the disposal of all things confiscated under this Act; and
- (b) the rewards to be paid to officers and informers out of the proceeds of fines and confiscations under this Act.

NOTE.—For Rules made under this section, see Note (a) at end of Act

14. Any officer of any of the departments of Excise, Police, Customs, Salt, Opium, or Revenue, superior in rank to a peon or constable, who may in right of his office be authorized by the Local Government in this behalf, and who has reason to believe, from personal knowledge or from information given by any person and taken down in writing, that opium liable to confiscation under this Act is manufactured, kept, or concealed in any building, vessel, or enclosed place, may, between sunrise and sunset,

Power to enter, arrest, and seize, on information that opium is unlawfully kept in any enclosed place

- (a) enter into any such building, vessel, or place;
- (b) in case of resistance, break open any door and remove any other obstacle to such entry;
- (c) seize such opium and all materials used in the manufacture thereof, and any other thing which he has reason to believe to be liable to confiscation under section eleven or any other law for the time being in force relating to opium, and
- (d) detain and search, and, if he think proper, arrest, any person whom he has reason to believe to be guilty of any offence relating to such opium under this or any other law for the time being in force.

NOTE.—Under Section 14 of Act I of 1878 (The Opium Act), the Hon'ble the Lieutenant-Governor is pleased to confer upon all excise officers above the rank of a jamadar of peons, and upon all police officers above the rank of sergeant, the powers with respect to the search for, and seizure of opium and other things liable to confiscation, and the detention, search, and arrest of any person reasonably believed to be guilty of any offence relating to such opium, described in the above mentioned section—(Punjab Government Notification No 1009, dated 18th September 1881, Punjab Gazette of 22nd idem)

Power to seize opium in open places

15. Any officer of any of the said departments may

- (a) seize, in any open place or in transit, any opium or other thing which he has reason to believe to be liable to confiscation under section eleven or any other law for the time being in force relating to opium;

(b) detain and search any person whom he has reason to believe to be guilty of any offence against this or any other such law, and, if such person has opium in his possession, arrest him and any other persons in his company.

16. All searches under section fourteen or section fifteen shall be made in accordance with the provisions of the Code of Criminal Procedure.

17. The officers of the several departments mentioned in section fourteen shall, upon notice given or request made, be legally bound to assist each other in carrying out the provisions of this Act.

18. Any officer of any of the said departments who, without reasonable ground of suspicion, enters or searches, or vexatiously and unnecessarily seizes the property of any person on the pretence of seizing or searching for any opium or other thing liable to confiscation under this Act, or vexatiously and unnecessarily detains, searches or arrests any person, shall for every such offence be punished with fine not exceeding five hundred rupees.

19. The Collector of the District, Deputy Commissioner, or other officer authorized by the Local Government in this behalf, either personally or in right of his office, or a Magistrate, may issue his warrant for the arrest of any person whom he has reason to believe to have committed an offence relating to opium, or for the search, whether by day or night, of any building or vessel or place in which he has reason to believe opium liable to confiscation to be kept or concealed.

All warrants issued under this section shall be executed in accordance with the provisions of the Code of Criminal Procedure.

20. Every person arrested, and thing seized, under section fourteen or section fifteen, shall be forwarded without delay to the officer in charge of the nearest police-station; and every person arrested and thing seized under section nineteen shall be forwarded without delay to the officer by whom the warrant was issued.

Every officer to whom any person or thing is forwarded under this section shall, with all convenient despatch, take such measures as may be necessary for the disposal according to law of such person or thing.

21. Whenever any officer makes any arrest or seizure under this Act, he shall within forty-eight hours next after such arrest or seizure make a full report of all the particulars of such arrest or seizure to his immediate official superior.

22. In the case of illegal cultivation of the poppy, the crop shall not be removed, but shall, pending the disposal of the case, be attached by an officer superior in rank to a peon or constable, who may, in right of his office, be authorized by the Local Government in this behalf; and such officer shall require the cultivator to give bail in a reasonable amount (to be fixed by such officer) for his appearance before the Magistrate by whom the case is to be disposed of, and such cultivator shall not be arrested unless within a reasonable time he fails to give such bail:

Provided that, wherever Act No. XIII of 1857 (*An Act to consolidate and amend the law relating to the cultivation of the Poppy and the manufacture of Opium in the Presidency of Fort William in Bengal*), or any part thereof is in force, nothing in this section shall apply to such cultivation.

**23.** Any arrear of any fee or duty imposed under this Act or any rule made hereunder, and any arrear due from any farmer of opium-revenue, may be recovered from the person primarily liable to pay the same to the Government or from his surety (if any) as if it were an arrear of land revenue.

**24.** When any amount is due to a farmer of opium-revenue from his licensee, in respect of a license, such farmer may make an application to the Collector of the District, Deputy Commissioner, or other officer authorized by the Local Government in this behalf, praying such officer to recover such amount on behalf of the applicant; and on receiving such application, such Collector, Deputy Commissioner, or other officer may in his discretion recover such amount as if it were an arrear of land-revenue, and shall pay any amount so recovered to the applicant:

Provided that the execution of any process issued by such Collector, Deputy Collector, or other officer for the recovery of such amount, shall be stayed if the licensee institutes a suit in the Civil Court to try the demand of the farmer, and furnishes security to the satisfaction of such officer for the payment of the amount which such Court may adjudge to be due from him to such farmer:

Provided also that nothing contained in this section or done thereunder shall affect the right of any farmer of opium-revenue to recover by suit in the Civil Court or otherwise any amount due to him from such licensee.

**25.** When any person in compliance with any rule made hereunder gives a bond for the performance of any duty or act, such duty or act shall be deemed to be a public duty, or an act in which the public are interested, as the case may be, within the meaning of the Indian Contract Act, 1872, Section 74, and upon breach of the condition of such bond by him, the whole sum named therein as the amount to be paid in case of breach may be recovered from him as if it were an arrear of land-revenue.

#### SCHEDULE

##### ACTS OF THE GOVERNOR-GENERAL IN COUNCIL.

Number and year.	Subject	Extent of repeal.
Act XI of 1849 ...	Abkari Revenue of Calcutta ...	In Section 5, the word "opium." In Section 6, the word "opium" and the last thirty-one words. In Section 15, from and including the words "except in the case," to the end of the section. In Section 33, from and including the words "except opium" down to and including the words "each seer;" and the words "or in the case of opium as aforesaid, a reward of one rupee eight annas for each seer."
Act III of 1852 ...	Spirituons liquors, Bombay ...	Section 10, so far as it relates to opium.
Act XXI of 1856...	Bengal Abkari Act ...	In Section 28 the word "opium."

SCHEDULE—(contd).  
ACTS OF THE GOVERNOR-GENERAL IN COUNCIL—(contd).

Number and year.	Subject	Extent of repeal.
Act XIII of 1857 ..	Cultivation of the poppy and manufacture of opium	Sections 34, 51, 52, 53, and 87. In Section 35, the words "or opium." In Section 49, the words "except opium." Section 59, so far as it relates to opium. In Section 75, the words "except opium" and from and including the words "opium seized," down to the end. In Section 76, from and including the words "except opium," down to and including the words "each seer;" and from and including the words "or in" down to and including the words "each seer." In paragraph 8 of Section 90, the words "and opium"
Act X of 1871 ...	The Northern India Excise Act.	Section 2 In paragraph 5 of Section 3, the word "opium"
Act IV of 1872	The Punjab Laws Act ... ..	Sections 18, 65, 66, 67 and 87
Act XXVI of 1872	Punjab Opium Law Amendment	In Section 19, the words "or opium."
Act VI of 1873	Transshipment of goods . . . .	Section 46, so far as it relates to opium.
Act XVI of 1875	The Indian Tariff Act ... ..	In Section 46, paragraph 3, from and including the words "as well as", down to and including the words "dealings in opium."
Act XXIII of 1876	To amend the law relating to Opium	In Section 63, the words "except opium." In Section 78 the words "except opium," and paragraph 2.
Act VI of 1877	For postponing the day on which the Opium Act, 1876, is to come into force	In Section 79, from and including the words "except opium," down to and including the words "each seer," and from and including the words "or in" down to and including the words "each seer"
		Section 49 The whole Act
		Section 7
		Section 9
		The whole Act
		The whole Act

*Acts of the Lieutenant-Governor of Bengal in Council.*

Number and year	Subject	Extent of repeal.
Act II of 1876.	To amend Act XI of 1849, Act XXI of 1856, and Act IV (B.C.) of 1866.	In Section 3, in the section substituted for Section 33 of Act XI of 1849, the words "except opium," and from and including the words "confiscated opium" down to and including the words "general order" In Section 3, in the section substituted for Section 34 of Act XI of 1849, the words "except in the case of opium," and from and including the words "and in the case of opium" down to and including the words "similarly distributed"



## SCHEDULE—continued.

*Acts of the Lieutenant-Governor of Bengal in Council—(concl'd.)*

Number and year.	Subject	Extent of repeal.
		<p>In Section 10, in the section substituted for Section 75 of Act XXI of 1856, the words "except opium," and from and including the words "confiscated opium," down to and including the words "general order"</p> <p>In Section 10, in the section substituted for Section 76 of Act XXI of 1856, the words "except in the case of opium," and from and including the words "and in the case of opium" down to and including the words "similarly distributed"</p>

*Bombay Regulations*

Number and year	Subject.	Extent of repeal
Bombay Regulation XXI of 1827.	Duty on opium     ... ..	The preamble, from and including the words "with the combined," down to and including the words "the prohibited,"
Bombay Regulation XX of 1830	Malwa opium     .     .     ...	Chapters I, II, III and IV. So much as has not been repealed.

NOTES—(a).—In exercise of the powers conferred by Sections 5 and 13 of the Opium Act, 1878, the Lieutenant-Governor of the Punjab has made the following Rules, which have received the sanction of the Governor General in Council, and are now published as required by the Act. Excepting as in any case expressly limited, these Rules apply to all the territories in British India administered by the Lieutenant-Governor of the Punjab, and will come into force on the 1st April 1880, the date of the extension of the Act to the Punjab:—

*Interpretation clause*

## 1. In these Rules—

(1) "Deputy Commissioner" means any revenue officer in independent charge of a district or division of a district.

(2) "Officer in charge of the excise revenue" means any subordinate officer of his staff whom the Deputy Commissioner may place in executive charge of the excise administration of the whole or part of a district. In Kulu, the Assistant Commissioner of Kulu for the time being shall be considered the officer in charge of the excise revenue of the district for the purpose of granting passes for transport from the area under his jurisdiction.

(3) "Opium" means the inspissated juice of the poppy.

(4) "Intoxicating drugs" includes *maḍak* and *chandū*, and every preparation and admixture thereof, and *kafa*, and all other intoxicating or narcotic preparations of opium and of the poppy, but does not include poppy-heads.

(5) "Poppy-heads" or "post" means the capsules of the poppy plants.

(6) "Farmer" means a person who has obtained from the Deputy Commissioner, under Rule 51 or Rule 56, a farm of the duties leviable on the retail vend of opium, of all or any "intoxicating drugs," or of "poppy-heads."

(7) "Licensed vendor" means a person who has obtained a license for retail vend under Rules 43 to 49, 52 or 56.

(8) "Medical practitioner" means a medical practitioner to whom a license has been granted by a Deputy Commissioner under Rule 23.

(9) The words "import", "export", and "transport" have the respective meanings assigned to them in the Opium Act, 1878

(10) "India" means the country included within the British frontier lines on the extreme west and north of the Presidency of Fort William, and within the British frontier line on the extreme east of the Presidency of Fort William and of British Burma.

#### *Cultivation*

2 The cultivation of the poppy is permitted in all parts of the Punjab, except in the districts of the Delhi and Hissar Divisions, where it is prohibited

3 A duty of two rupees will be levied on every acre of poppy cultivation. The minimum charge will be for a quarter of an acre; any area under a quarter of an acre will be charged as a quarter of an acre

4 The measurements will be effected by the Patwaris, under the supervision of the Tahsildars

5 Any person desiring to grow poppy must, before the first of November of each year, inform the Patwari of his village of the area he intends to cultivate, and the Patwari shall enter the information in a register to be kept by him for the purpose. If a cultivator, after intimating his intention under this rule abandons his intention, the Patwari shall record the fact in his register

6 On the 1st January of each year, the Patwari shall furnish an abstract of the area under poppy cultivation to the Tahsildar, who shall keep up a register embodying these abstracts, and the Tahsildar shall then, or at any other time before removal of the crop, personally or through the medium of any revenue official not below the rank of Assistant Kanungo, test the measurement of the poppy cultivation recorded by the Patwari

7 After the measurements have been tested, the Patwari shall inform the Lambardar of each village of the amount payable on account of poppy acreage duty, and the persons who are to pay it, and the Lambardar shall be responsible for the collection of the same and its payment to Government along with the instalments of Government land revenue. No percentage shall be claimable by Lambardars on account of such collections

8 Immediately after he has prepared and communicated to the Lambardar his statement of demand, the Patwari shall furnish to each poppy cultivator a memorandum of the recorded area of his crop (hereinafter called the cultivator's license)

9 The cultivator's license shall entitle him to keep the produce from the time of the maturity of the crop until the time for the renewal of the license, not later than the 1st of November, or, subject to the rules as to quantities, hereinafter provided, to sell the standing crop to any person holding a license under Rule 14, or to sell the produce to a farmer of the duties leviable on the retail vend of opium, or to any person holding a license under Rules 37 to 42

10 When selling the standing crop, the cultivator shall not sell less than one acre at a time to one purchaser, unless his entire crop is less than one acre, in which case he may sell his entire crop. When selling opium, the cultivator shall not sell except in such quantities as are provided hereinafter for wholesale dealing

11. The holder of a cultivator's license shall enter, or cause to be entered thereon, the actual outturn of opium and particulars of all sales thereof, and every sale shall be attested by the signature of the purchaser.

12. The Patwari shall, at intervals, examine and check these entries on the cultivators licenses

13 The licenses granted to cultivators shall be returned to the Patwari at the time of preparation of the next demand statement, and the Patwari shall forward them to the Tahsildar. Should any of the produce covered by the old licenses remain undisposed of, the amount of the balance will be entered in the new license, and shown as opium to be disposed of in addition to the current year's outturn

14. Should a licensed cultivator, who does not wish to continue the cultivation, possess any balance of opium undisposed of, the old license may be renewed for a stated period to allow of the sale of the opium to a licensed purchaser. Such extension shall not be for a period exceeding three months, and no second extension shall be granted

15. If a cultivator wilfully conceals any portion of his opium cultivation, he shall, if the crop be standing, be liable to pay double duty, in addition to any other penalty to which he may be liable: and if the opium has been extracted or the poppy-heads gathered, he may be prosecuted at the discretion of the Deputy Commissioner for an infringement of these rules.

16. All Zaildars, Lambardars, and Patwaris shall give information to the Tahsildar of unlicensed cultivation of the poppy or unlicensed manufacture of opium within their villages,

*Manufacture.*

17. The holder of a cultivator's license is entitled to manufacture opium.

18. Any person who procures a license for that purpose from the Deputy Commissioner, may purchase standing crops of poppy from the cultivators. A fee of Rs. 20 shall be payable for such license. Such license conveys the right to manufacture opium. A register of licenses so issued shall be kept up by the Deputy Commissioner. The license shall authorise the purchase of the crops of any number of cultivators for one season.

19. A license-holder who purchases the standing crop of poppy is authorised to extract the opium and to gather the poppy-heads, and to sell them in accordance with the rules applicable to licensed opium vendors and purchasers, for wholesale vend.

20. A licensed purchaser of a standing crop of poppy is entitled to all the privileges attaching to an actual cultivator of poppy.

*Possession*

21. No person, other than a person holding a license, order, or pass under these rules, shall have in his possession a greater quantity of opium or intoxicating drugs than three tolas weight, or of post or poppy-heads than five seers weight.

22. Rule 21 does not apply to—

(i) travellers and visitors from foreign countries beyond India, having in their possession any quantity of opium produced in such a foreign country, or intoxicating drugs prepared therefrom, not exceeding two seers in weight for the whole party, intended for the personal use of such travellers and visitors or their attendants, and not for sale or barter ;

(ii) foreign horse-dealers entering India with their horses, having in their possession opium produced in foreign territory, or intoxicating drugs prepared therefrom, limited to ten tolas weight per horse.

If opium and intoxicating drugs be found in possession of any such travellers, visitors or horse-dealers in excess of the authorised quantity, such excess shall be liable to confiscation.

23. The Deputy Commissioner may grant to any medical practitioner residing within his district a license in Form II appended to these Rules, for the possession and retail of opium intoxicating drugs, and poppy-heads for medical purposes only : Provided that such medical practitioner shall not have in his possession at one time more than a half seer of opium, or half a seer of intoxicating drugs, and more than ten seers of poppy-heads.

*Transport*

24. When a farmer, licensed vendor, or wholesale license-holder desires to transport opium, intoxicating drugs or poppy-heads—

case (a), from one district to another,

case (b), from one pargana to another pargana of the same district when the parganas of a district are farmed to different farmers,

he shall obtain a pass for each consignment in such form as the Financial Commissioner may, from time to time, prescribe—

in case (a), from the officer in charge of the excise revenue of the District,

in case (b), from the Tahsildar of the pargana,

from which, as the case may be, such opium, intoxicating drugs, or poppy-heads are to be transported.

The pass shall specify—

(1) the name of the person in charge of the consignment ;

(2) the name of the consignee ;

(3) the number of packages and the weight and contents of each ; and

(4) the destination of the consignment.

Each package shall be stamped in the presence of the officer granting the pass with his official seal.

No such pass shall be granted unless the person applying for it produces a written permission to apply for such pass—

in case (a), from the officer in charge of the excise revenue of the district,

in case (b), from the Tahsildar of the pargana,

to which as the case may be, the opium, intoxicating drugs, or poppy-heads are to be transported.

A copy of every transport pass granted shall be sent—

in case (a), to the officer in charge of the excise revenue of the district

in case (b), to the Tahsildar of the pargana,

to which, as the case may be, the consignment is to be transported.

The bulk of a consignment shall not be broken in transit

The pass and the packages shall, on arrival, be presented for examination—  
in *case* (a), to the officer in charge of the excise revenue of the district;  
in *case* (b), to the Tahsildar of the pargana

25 No Railway Company shall receive or convey opium, intoxicating drugs, or poppy-heads not covered and accompanied by a pass of an officer competent under these Rules to grant the same; or shall convey opium, intoxicating drugs, or poppy-heads, otherwise than direct in the custody of its own officers to the station at which, according to the route prescribed in such permit or pass, it should leave the Railway. Such opium, intoxicating drugs or poppy-heads may be detained and examined as to number, weight, and tampering in transit at any station at which the Lieutenant-Governor of the Punjab may direct such detention or examination either generally or specially

26 Subject to these Rules, sales by wholesale of Punjab-grown opium may be effected during transit by a wholesale license-holder: Provided they are duly recorded and attested on the pass by an officer not below the rank of a Tahsildar.

27. Packages covered by a pass must be effectually sealed by the officer granting the pass, and, after every sale on the journey, they must be resealed by the officer attesting the sale after re-examination and re-weighment

28 Every Deputy Commissioner and other revenue officer not below the rank of Tahsildar, and every police officer not below the rank of Deputy Inspector, and every customs officer not below the rank of Assistant Patrol, is authorized to detain and inspect any despatch of opium, intoxicating drugs, or poppy heads passing through his jurisdiction, and call for production of the pass

29. Any Deputy Commissioner may extend the period for which a pass has been granted on application from the person in charge, on due cause being shown, and provided the packages are intact.

30. If on the inspection of a despatch under Rule 27 or 28, or on the arrival of a despatch at its destination, any deficiency is found, that cannot be accounted for by dryage, or wholesale sale as permitted by Rule 26, the holder of the pass and the person in charge shall be held to have infringed these Rules. The authorized rate allowed for diminution by dryage is a maximum of six per cent., of which one-and-a-half per cent during the first week and three per cent during the first fourteen days from the date of the pass

31. The transport pass prescribed by Rule 24 must in all cases be delivered up to the Deputy Commissioner or Tahsildar on arrival at destination

#### *Import*

\* 32 No opium, intoxicating drugs, or poppy-heads shall be imported into the Punjab except—

- (a) on account of Government;
- (b) by the persons and under the circumstances specified in Rule 22;
- (c) by licensed vendors in accordance with these Rules.

Licensed vendors, and their agents, are allowed to make their own arrangements for the purchase of opium in places beyond the limits of the Punjab other than places in the North-Western Provinces, Oudh or Bengal, or in Nepal. In such cases, the importer must, ordinarily, take out a permit from the Deputy Commissioner of the Punjab district which the consignment may first enter, as also from the district where he is licensed to sell opium. Rules 24, 26, 27, 28, 29 and 30 apply to such a consignment, both in transit while in the Punjab and on arrival at its destination.

But if the licensed vendor desires to import Malwa Opium, he must procure from the Deputy Commissioner of the district in which he is licensed to sell opium, a written permit addressed to the Opium Agent, Indore or Ajmere, authorising him to import Malwa Opium. Such permit will not be granted unless the licensed vendor gives approved security to the Deputy Commissioner for the payment to the Opium Agent, Indore or Ajmere, of a sum not being less than the duty for the time being leviable on Malwa Opium imported into the Punjab.

On production of the permit, and on payment of the duty specified above at Indore or Ajmere, the Opium Agent at Indore or Ajmere will issue a pass to the licensed vendor covering an amount of Malwa Opium equal to that indicated in the permit, sending a counterpart of the pass to the Deputy Commissioner who issued the permit

NOTE.—For Rules regarding the import of Malwa Opium, See Note (b), *infra*.

\*NOTE.—See Financial Commissioner's Book Circular No. 1 A. of 1880, and Circular No. 9 of 1880. This rule is as amended by Notification No. 242, dated 28th September 1882 (*Punjab Gazette of 5th October 1882*).

*Export.*

33. The re-export of foreign opium which has been imported for sale into the Punjab is prohibited.

34. The Deputy Commissioner may, at his discretion and when the person applying for the pass produces a written permission so to apply, signed, in the case of Native States under the Punjab Government, by the Vakeel of the State concerned, and in other cases by the Political Officer accredited by the British Government to the Foreign State into which such opium is to be imported, grant to a wholesale license holder a pass in such form as the Financial Commissioner may prescribe for the export of such opium to Native States or independent territory; but no license shall be granted for the export of such opium to, or its sale in, any place in British territory

The pass shall specify—

- (1) the name of the person in charge of the consignment;
- (2) the name of the consignee;
- (3) the number of packages and the weight and contents of each; and
- (4) the destination of the consignment.

\* 34 A. The Assistant Commissioner of Kulu, for the time being, may, at his discretion grant to a wholesale license-holder a pass for the export of opium from Kulu to Ladakh, without the production of a written permission from the Vakeel of the Kashmir State, or from the accredited Political officers of the British Government at Kashmir and Ladakh

*Sale, General.*

35. Opium may be purchased by four classes:

- I—Those who purchase Punjab-grown opium on wholesale licenses;
- II—Those who purchase opium (Punjab-grown or otherwise) on licenses for retail vend;
- III—Manufacturers who purchase the standing crop;
- IV.—Private consumers (without license).

*Sale, Wholesale*

36. By wholesale dealing is meant the purchase of, or sale of, not less than the following quantities, or if the entire stock or crop of the cultivator be less than these quantities, then such entire stock:

Poppy-heads or post	20 seers
Opium or intoxicating drugs	10 „

37. A license for dealing wholesale in Punjab-grown opium, or intoxicating drugs prepared therefrom, or in poppy-heads, within the limits of any districts in the Punjab, except the districts of the Delhi and Hissar Divisions, may be granted by a Deputy Commissioner at his discretion to any farmer or to any other person.

38. A fee of twenty rupees shall be payable for such license. Such license shall specify the districts in which Punjab-grown opium or intoxicating drugs prepared therefrom may be purchased, and those in which such opium or intoxicating drugs may be sold under it, and it shall authorise the licensee to purchase wholesale from other wholesale license-holders, and from licensed cultivators, and to sell wholesale to other wholesale license-holders, to farmers, and to licensed vendors in the said districts respectively, and to such persons only. It shall be in force for one year from the date of issue, and at the end of the year it shall be returned to the Deputy Commissioner who issued it.

39. Whenever the holder of such a license effects a sale of opium or intoxicating drugs under it, he shall, before delivering such opium or intoxicating drugs, cause the sale to be recorded on his license at the nearest tahsil, and attested by the Tahsildar.

40. When a wholesale license-holder wishes to purchase or sell in a district not specified in his license, he shall apply to the Deputy Commissioner of that district to have his license enlarged or modified. The Deputy Commissioner will decide on the necessity or desirability of alteration, and if the enlargement or modification be sanctioned, it shall be communicated by such Deputy Commissioner to the Deputy Commissioner who issued the original license. For every such enlargement or modification there shall be payable a fee of ten rupees.

41. Opium shall be supplied in quantities of not less than one seer from the Deputy Commissioner's office on pre-payment at such rates as the Lieutenant-Governor of the Punjab may, from time to time, prescribe by notification in the *Punjab Gazette* to wholesale licenseholders, farmers, and to licensed vendors.

\* See No. 793, dated 18th July 1881—(*Punjab Gazette* of 21st *idem*).

42. A licensed vendor or farmer may sell any quantity of opium, intoxicating drugs, or poppy-heads, to another licensed vendor or farmer, and a quantity not exceeding half a seer in the case of opium or intoxicating drugs, and not exceeding ten seers in the case of poppy-heads, to a duly licensed medical practitioner.

*Sale, Retail.*

43. No person shall retail opium, intoxicating drugs, or poppy-heads, except under license from the Deputy Commissioner, or from a farmer, and in accordance with the conditions specified in the license.

44. The sale of any quantity not exceeding three tolas of opium or intoxicating drugs, or five seers of poppy-heads or post, is a retail; and no larger quantities shall be sold, except to a wholesale licensed holder, farmer, licensed vendor, or medical practitioner, or under a special order from an officer exercising the powers of Deputy Commissioner.

45. Licenses for the retail of opium may be granted by the Deputy Commissioner.

Such limited number of shops for the retail vend of opium as the Commissioner may from time to time decide shall be allowed in each district, and the monopoly of retail vend at such shops shall be put up to auction at the commencement of each official year. The shops shall be sold singly or in such groups as the Deputy Commissioner may direct.

46. Licenses for the retail of opium shall be granted to licensed vendors in Form III.

47. Whenever the Deputy Commissioner grants a license for the retail of opium or of intoxicating drugs, he shall impose such conditions on the licensee besides those specified in the license as may, from time to time, be prescribed by the Financial Commissioner.

48. Licenses for the retail of intoxicating drugs shall be granted by the Deputy Commissioner in Form IV.

49. Licenses for retail vend shall be granted for one year only, unless the Financial Commissioner shall otherwise specifically direct.

50. Every person taking out a license in Form III or Form IV shall execute a counterpart engagement for the due performance of all the conditions expressed in the license, and any additional conditions which may be imposed by the Deputy Commissioner under the directions of the Financial Commissioner, and shall give such security for the performance of his engagement, or make such deposit, in lieu of security, as the Deputy Commissioner may require.

51. With the sanction of the Commissioner of the Division, the Deputy Commissioner may let in farm the duties leviable on the retail of opium, or of all or any intoxicating drugs, for a term not exceeding two years, and, with the sanction of the Financial Commissioner, for a term not exceeding five years. The Financial Commissioner may prescribe rules (a) for the invitation and acceptance of tenders for such farm; (b) for the requisition of security for the due fulfilment of the engagements entered into by the farmers; and (c) as to the form and conditions of such leases. Any breach of such engagement shall render the lease liable to annulment by the authority by whom the farm was sanctioned.

52. When the duties leviable on opium or any intoxicating drugs are let in farm, the farmer may make his own arrangements, consistently with the other provisions of these Rules, for the manufacture and retail thereof within the limits of his farm. All the penalties prescribed in the 9th and following sections of the Opium Act, 1878, for the unlawful manufacture sale, or possession of any such drug, shall be incurred by all persons manufacturing, selling, or possessing the same without license from the farmer.

53. Before entering into engagements for any such farm, the Deputy Commissioner may, with the sanction of the Commissioner of the Division, make such reservations or restrictions with respect to the grant of licenses by the farmer as he thinks fit.

Such licenses shall be granted in Form V.

54. Every farmer shall file in the Deputy Commissioner's office, in such form as may, from time to time, be prescribed by the Financial Commissioner, a list of all licenses granted by him.

55. With the sanction of the Financial Commissioner, obtained through the Commissioner of the Division, the Deputy Commissioner may cancel any lease granted under Rule 51; or may within the period of the lease, impose any new reservation or restriction on the farmer.

If a lease be cancelled for any cause other than a breach of the conditions of the lease, or if any reservation or restriction with respect to the grant of licenses be imposed during the lease, the Financial Commissioner may award to the farmer compensation for any loss thereby caused to him.

56. The Deputy Commissioner may grant licenses for the retail of poppy-heads, or may farm the duties leviable on the retail of the same, on such terms as the Financial Commissioner shall, from time to time, prescribe.

57. If any licensed vendor or farmer shall have in his possession, on the expiry of his license or farm, any opium, intoxicating drugs, or poppy-heads which he is unable to dispose of to the satisfaction of the Deputy Commissioner by private sale to the other licensed vendors or farmers, he shall surrender the same to the officer in charge of the excise revenue, and the incoming licensed vendor or farmer, or, if the expired license or farm is not renewed, any licensed vendor or farmer within the district, when required by the Deputy Commissioner, shall be bound to purchase the articles aforesaid to the extent of two months supply at such price, and in such quantities, as the Deputy Commissioner shall adjudge; provided that if such articles be declared by the Civil Surgeon of the district to be unfit for use, the Deputy Commissioner shall cause them to be destroyed.

*Permission to cultivate, &c.*

58. Subject to the exceptions, conditions, and regulations hereinbefore imposed and prescribed, the cultivation of the poppy, the manufacture of opium, the possession, transport, import, export, and sale of opium, intoxicating drugs, and poppy-heads, and the manufacture of opium and of such preparations, admixtures, and drugs are permitted; and, except as permitted by these Rules, the cultivation of the poppy, the manufacture of opium, the possession, transport, import, export, and sale of opium, intoxicating drugs, and of poppy-heads is prohibited.

*Disposal of things confiscated.*

59. (i) All things confiscated under the Opium Act, 1878, except opium, intoxicating drugs, and poppy-heads, shall be disposed of by the Deputy Commissioner by public sale

\* (ii). Opium so confiscated shall be sent for examination to the Civil Surgeon of the district, and, if declared by him to be fit for use, shall be disposed of in such manner as the Financial Commissioner may by general or special order direct. If declared to be unfit for use, it shall be immediately destroyed

(iii). Intoxicating drugs so confiscated shall be immediately destroyed

(iv). Poppy-heads so confiscated shall be disposed of as the officer in charge of the excise revenue of the district in which the confiscation is made may direct

60. Any Magistrate convicting an offender under Section 9, or any Magistrate or other authorised officer ordering the confiscation of opium under Section 12 of the Opium Act, 1878, may grant, in such proportions as he thinks fit, to any person or persons who have contributed to the seizure of the opium or the conviction of the offender, a reward not exceeding the value of the opium (at the rate of three rupees a seer) and other articles confiscated in the case, plus the amount of any fine imposed

61. If in any case the fine or forfeiture is not realised, the Financial Commissioner may grant such reasonable reward, not exceeding two hundred rupees, as may seem fit. The Financial Commissioner may also direct by general order what classes of excise officers shall receive rewards and what classes shall have no title to share therein

*Miscellaneous*

62. These Rules, except where otherwise expressly stated, extend to opium imported into the Punjab as well as to opium grown within the Punjab

63. Farmers are prohibited from levying any fees from cultivators or manufacturers of opium for permission to cultivate or manufacture, or on any other pretext whatever

64. The Financial Commissioner shall regulate the form and conditions of all licenses, leases, and passes granted under these Rules, and not specially provided for in the Rules, and all other forms, registers, returns, and accounts required under these Rules shall be in such form as the Financial Commissioner may direct

65. Suspensions and remissions of demand may be made under the sanction of the Commissioner of the Division. In the case of suspensions, a date or dates for payment must be fixed.

Refunds may be made under the Rules applicable to refunds on account of land revenue.

All suspensions, remissions, and refunds sanctioned by Commissioners must be reported at the time to the Financial Commissioner

**F O R M S.**

*I—Wholesale license granted under Rules 36 to 39*

License to deal in opium grown in the Punjab (except in the Delhi and Hissar Divisions where the cultivation is prohibited) is granted to \_\_\_\_\_ subject to the undermentioned conditions, and to all other provisions relating to wholesale dealing in opium, intoxicating drugs, or poppy-heads, contained in the rules relating to opium grown in the Punjab.

The license-holder is authorised to purchase Punjab grown opium, intoxicating drugs prepared therefrom, and poppy-heads, wholesale, from other wholesale license-holders, and from licensed cultivators in the following districts or places—

\* See Financial Commissioner's Circular Memo. No. 53 of 1888.

and is authorised to sell the said opium, intoxicating drugs prepared therefrom, and poppy-heads, wholesale, to other wholesale license-holders, to farmers, and to licensed retail vendors in the following districts or places—

This license remains in force for one year from date of issue, and shall be returned on expiry to the undersigned.

Date \_\_\_\_\_

Place \_\_\_\_\_

Deputy Commissioner.

## II.—Special license to medical practitioner under Rule 23.

Special license granted to \_\_\_\_\_ following the profession of \_\_\_\_\_ at \_\_\_\_\_ in the district of \_\_\_\_\_, for the retail of opium, pure or mixed, on the condition that such opium shall be procured from a licensed vendor, and shall be used *bona fide* as medicine or in medical preparations or prescriptions.

District \_\_\_\_\_

Dated \_\_\_\_\_

## III.—License for retail vend (general).

District \_\_\_\_\_

No. of license in Register \_\_\_\_\_

Name of retailer \_\_\_\_\_

Locality of shop \_\_\_\_\_

Be it known that \_\_\_\_\_ resident of \_\_\_\_\_ pargana \_\_\_\_\_ district of \_\_\_\_\_, is hereby authorised by the Deputy Commissioner of \_\_\_\_\_ to sell opium by retail at \_\_\_\_\_ in \_\_\_\_\_ from the date of this license to the day of \_\_\_\_\_ 18 \_\_\_\_\_, upon the following conditions :—

I.—That he will pay to Government a monthly duty of \_\_\_\_\_

II.—That he will retail opium only in the shop for which this license is granted.

III.—That, except to a licensed vendor or to a medical practitioner holding a special license from the Deputy Commissioner, he will not sell more than three tolas weight of opium to any person at one time.

IV.—That he will not adulterate the opium sold by him.

V.—That he will not receive any wearing apparel or other goods in barter for opium.

VI.—That he will not open his shop or make sales therein, before sunrise; that he will not keep it open, or make sales therein, after \_\_\_\_\_; and that he will not harbour any person therein during the night.

VII.—That he will not permit persons of notoriously bad character to resort to his shop; that he will prevent gaming and disorderly conduct therein; and that he will give information to the nearest Magistrate or police officer of any suspected person who may resort to his shop.

VIII.—That he will have constantly fixed up at the entrance of his shop, a signboard bearing the following inscription, in legible characters, in the vernacular language ;—

(Name of vendor.)

“Licensed to retail opium.”

IX.—That if he buy less than \_\_\_\_\_, which is the quantity estimated to be retailed at \_\_\_\_\_ in each month, he will, if required, explain the reason of the falling-off to the Deputy Commissioner.

X.—That he will keep up daily an account in this form, showing the receipts and deliveries of opium at his shop each day, and the balance in store :—

Date.	Quantity of opium in store from yesterday.	Quantity of opium received this day and whence received.	Total quantity to be accounted for.	Quantity sold this day.	Quantity left in store.
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XI.—That he will at once produce his license and accounts for inspection, on the demand of any officer of any of the Departments of Excise, Police, Customs, Salt, Opium, or Revenue, superior in rank to a peon or constable, empowered under Section 14 of the Opium Act; and that he will not prevent any such officer, of whatever rank, from entering his shop at any hour of the day or night.

XII.—This license shall have effect from \_\_\_\_\_ to \_\_\_\_\_, and, unless renewed by the order of the \_\_\_\_\_ by the \_\_\_\_\_ day of \_\_\_\_\_, being the expiration of the period for which it was granted, shall cease to remain in force, notwithstanding that a special order recalling it has not been issued by the \_\_\_\_\_



**XIII**—This license may be recalled by the Deputy Commissioner—

- (a) for default of punctual payment of the duty stipulated to be paid in clause I ;
- (b) for violation of any of the conditions specified in this license ;
- (c) if the holder of this license be convicted of breach of the peace, or of any other criminal offence during the currency of this license

Should the license be recalled for any of these causes, the license-holder will have no claim to any compensation whatever, or to any refund of any duty, or instalment of duty, already paid. But it shall be in the discretion of the Deputy Commissioner to make such compensation or refund, should he consider it necessary or advisable to do so.

Should the Deputy Commissioner desire to recall this license before the expiry of the period for which it has been granted for any cause other than those above specified, (a), (b), and (c), he shall give 15 days' previous notice, and remit a sum equal to the duty for 15 days, or, if notice be not given, shall make such further compensation, in default of notice, as the Commissioner may direct.

**XIV**—This license may be surrendered by the license-holder on his giving one month's notice to the Deputy Commissioner, and paying such fine, not exceeding the amount of the duty for six months, or the loss caused to Government by the failure to carry out any condition imposed, as the Deputy Commissioner may adjudge.

Should the Deputy Commissioner be satisfied that the reason for resigning the license is adequate, he may with the sanction of the Financial Commissioner, remit the fine.

**XV**—On the infringement of any of the above articles, or of any of the conditions imposed by the Opium Act, 1878, or by the rules made thereunder, this license, and any other license or licenses that the holder may have obtained for the sale of opium or for the manufacture or sale of madak or chandu, will be forfeited; he will also be liable to the punishment prescribed by law for the specific offence committed.

*IV—License for the retail sale of madak or of chandu*

District  
No. in Register  
Name of vendor  
Locality of shop

Be it known that \_\_\_\_\_ resident of \_\_\_\_\_ pargana \_\_\_\_\_ district of \_\_\_\_\_, is authorized by the Deputy Commissioner of \_\_\_\_\_ to open a shop for the retail vend of madak (or chendu, as the case may be) at \_\_\_\_\_ from the date of this license to the \_\_\_\_\_ 18 \_\_\_\_\_ upon the following conditions :

**I.**—That he will pay to Government a monthly duty of \_\_\_\_\_

**II**—That he will sell madak (or chandu) only in the shop for which this license is granted, and that he will not sell madak (or chandu) in any other place.

**III**—That, except to a licensed vendor or to a medical practitioner duly licensed, he will not sell more than three tolas weight of madak (or chandu) to one person at one time.

**IV.**—That he will not receive any wearing apparel, or other goods, in barter for the drug.

**V.**—That he will not open his shop, or make sales therein before sunrise; that he will not keep it open, or make sales therein, after \_\_\_\_\_ and that he will not harbour any suspected person therein.

**VI.**—That he will not permit persons of notoriously bad character to resort to his shop; that he will prevent gaming and disorderly conduct therein; and that he will give information to the nearest Magistrate or police officer of any suspected person who may resort to his shop;

**VII.**—That he will have constantly fixed up, at the entrance of his shop, a signboard, bearing the following inscription, in the vernacular language of the country :

(Name of vendor)

“License vendor of madak (or chandu) ”

**VIII**—That he will keep up daily the following account, showing the receipts of opium in his shop, the quantity used in the manufacture of madak (or chandu), and the balance remaining in store at the end of the day.

**I—OPIUM**

Date.	Quantity of opium remaining in store yesterday.	Quantity received to-day and whence received	Total quantity of opium to be accounted for.	Opium used in the preparation of madak (or chandu).	Quantity remaining in store.
			M. S. C.		
1	2	3	4	5	6

## II.—MADAK OR CHANDU.

Date.	Quantity remaining in store yesterday.	Quantity manufactured out of opium to-day.	Total quantity of madak or chandu to be accounted for.	Madak or chandu sold to-day M. S. C.	Quantity remaining in store this day.
1	2	3	4	5	6

IX.—That he will at once produce his license and accounts for inspection, on the demand of any officer of any of the departments of Excise, Police, Customs, Salt, Opium, or Revenue, superior in rank to a peon or constable empowered under Section 14 of the Opium Act; and that he will not prevent any such officer, of whatever rank, from entering his shop at any hour of the day or night.

X.—This license shall have effect from \_\_\_\_\_ to \_\_\_\_\_, and, unless renewed by the order of the \_\_\_\_\_ by the \_\_\_\_\_ day of \_\_\_\_\_, being the expiration of the period for which it was granted, shall cease to remain in force notwithstanding that a special order recalling it has not been issued by the \_\_\_\_\_.

XI.—This license may be recalled by the Deputy Commissioner—

- (a) for default of punctual payment of the duty stipulated to be paid in clause I;
- (b) for violation of any of the conditions specified in this license;
- (c) if the holder of this license be convicted of breach of the peace, or of any other criminal offence during the currency of this license.

Should the license be recalled for any of these causes, the license-holder will have no claim to any compensation whatever, or to any refund of any duty, or instalment of duty, already paid. But it shall be in the discretion of the Deputy Commissioner to make such compensation or refund, should he consider it necessary or advisable to do so.

Should the Deputy Commissioner desire to recall this license before the expiry of the period for which it has been granted for any cause other than those above specified, (a), (b) and (c), he shall give 15 days' previous notice, and remit a sum equal to the duty for 15 days, or if notice be not given, shall make such further compensation in default of notice, as the Financial Commissioner may direct.

XII.—This license may be surrendered by the license-holder on his giving one month's previous notice to the Deputy Commissioner, and paying such fine not exceeding the amount of the duty for six months, or the loss caused to Government by the failure to carry out any condition imposed, as the Deputy Commissioner may adjudge.

Should the Deputy Commissioner be satisfied that the reason for resigning the license is adequate, he may, with the sanction of the Financial Commissioner, remit the fine.

XIII.—On the infringement of any of the above articles, or any of the conditions imposed by the Opium Act, 1878, or by the rules made thereunder, this license, and any other license or licenses that the holder may have obtained for the sale of opium, or for the manufacture or sale of madak or chandu, will be forfeited; he will also be liable to the punishment prescribed by law for the specific offence committed.

*V.—License for the retail sale of opium, madak or of chandu granted by a farmer.*

District \_\_\_\_\_  
No. in Register \_\_\_\_\_  
Name of vendor \_\_\_\_\_  
Locality of shop \_\_\_\_\_

Be it known that \_\_\_\_\_ resident of \_\_\_\_\_ pargana \_\_\_\_\_ district of \_\_\_\_\_, is authorized by \_\_\_\_\_, the farmer of \_\_\_\_\_, to open a shop for the retail vend of opium, madak (or chandu, as the case may be), at \_\_\_\_\_ from the date of this license to the \_\_\_\_\_ 18 \_\_\_\_\_, on the following conditions:—

I.—That he will pay to the farmer, \_\_\_\_\_ a monthly duty of \_\_\_\_\_

II.—That he will purchase all the opium he may use in the manufacture of madak (or chandu, as the case may be) direct from the farmer \_\_\_\_\_ and not from any opium vendor.

III.—That he will sell madak (or chandu) only in the shop for which this license is granted.

IV.—That except to a licensed vender or to a medical practitioner duly licensed, he will not sell more than three tolas weight of madak or chandu to one person at one time.

V.—That he will not receive any wearing apparel, or other goods, in barter for the drug.

VI.—That he will not open his shop, or make sales therein, before sunrise ; that he will not keep it open, or effect sales therein after ; and that he will not harbour any suspected person therein.

VII.—That he will not permit persons of notoriously bad character to resort to his shop, that he will prevent gaming and disorderly conduct therein ; and that he will give information to the nearest Magistrate or police officer of any suspected person who may resort to his shop.

VIII.—That he will have constantly fixed up at the entrance of the shop a signboard bearing the following inscription, in the vernacular language of the country :—

(Name of vendor.)

“Licensed vendor of opium (madak or chandu).”

IX.—That he will keep up daily the following account, showing the receipts of opium in his shop, the quantity used in the manufacture of and the balance remaining in store at the end of the day :—

#### I.—OPIUM.

Date.	Quantity of opium remaining in store yesterday.	Quantity received to-day and whence received.	Total quantity of opium to be accounted for. M. S. C.	Opium sold. M. S. C.	Opium <sup>†</sup> used in the preparation of madak (or chandu). M. S. C.	Quantity remaining in store.
1	2	3	4	5	6	7

#### II.—MADAK OR CHANDU.

Date.	Quantity remaining in store yesterday.	Quantity manufactured out of opium to-day.	Total quantity of madak or chandu to be accounted for.	Madak or chandu sold to-day. M. S. C.	Quantity remaining in store this day.
1	2	3	4	5	6

X.—That he will at once produce his license and accounts for inspection, on the demand of any officer of any of the Departments of Excise, Police, Customs, Salt, Opium, or Revenue, superior in rank to a peon or constable, empowered under Section 14 of the Opium Act ; and that he will not prevent any such officer, of whatever rank, from entering his shop at any hour of the day or night.

XI.—This license may be recalled by the farmer,—

- (a) for default of punctual payment of the duty stipulated to be paid in clause I ; and by the farmer or Deputy Commissioner,
- (b) for violation of any of the conditions specified in this license ;
- (c) if the holder of this license be convicted of breach of the peace or of any other criminal offence during the currency of this license.

XII.—On the infringement of any of the above articles, or of any of the conditions imposed by the Opium Act, 1878, or by the rules made thereunder, this license and any other license or licenses that the holder may have taken out for the sale of opium, or for the manufacture or sale of madak or chandu, will be forfeited ; he will also be liable to the punishment prescribed by law for the specific offence committed.—(*Punjab Government Notification No. 2, dated 3rd January 1880, Punjab Gazette of 8th idem*). See also *Financial Commissioner's Book Circular No. XXVI of 1881*.

(b). The Government of India, having by Notification No. 1001, dated 12th May 1882 in the Department of Finance and Commerce (copy annexed to this Circular), <sup>†</sup> authorized the importation of Malwa Opium into the Punjab on payment of quarter duty, or Rs. 175 per

\* This column will be blank when the license is to sell intoxicating drugs only.

† This column will be blank when the license is to sell opium only.

‡ See Note to S. 6, ante p. 1036.

chest of 140½ lbs. avoirdupois, the attention of all Revenue Officers is invited to the annexed rules regarding the import of such opium, which have been drawn up in consultation with the Opium Agent at Indore.

2. The Deputy Commissioners of those districts into which Malwa Opium is likely to be imported, should take pains to make it known to all licensed vendors and farmers, that in future permits for the importation of Malwa Opium can, under the authority of the amended Rule 32 of the Punjab Opium Rules, published with Punjab Government Notification No. 242, dated 28th September 1882, Department of Revenue and Agriculture (a copy of which is annexed to this Circular \*), be granted at Ajmere as well as Indore, and that opium can be weighed and passes obtained from the former as well as the latter depôt.

3. Directly after the annual sale of the licenses for vend of opium has taken place, each Deputy Commissioner should submit an estimate of allotment from the 1,200 maunds of Málwa Opium at ¼th duty, which he thinks the farmers and licensed vendors of his district will require in the ensuing year, specifying the details of the quantity they wish to take from Ajmere and Indore, respectively.

4. As the States of Baháwalpur and Loháru and the Bawal, Nauti, Narnaul, Nanáundh and Dadri parganahs of the Nabha, Patiala and Jhind States and the Nabal villages of the Dujána State adjoin directly or indirectly the Rajputana boundary, and Málwa Opium may be imported into them from Rajputana without the payment of any duty to the British Government, it follows that if our licensed vendors are allowed to import opium into British districts from those territories there is great risk of their importing Málwa Opium which has paid no duty. To obviate this risk it has been decided to alter the rules under the Opium Act so as to include the above-mentioned territories among the localities from which licensed vendors are forbidden to purchase opium for import to the Punjab. For the present, however, till the rules are altered, the Financial Commissioner requests Deputy Commissioners not to grant to licensed vendors permits or passes for the import of opium from the State of Bahawalpur and Loháru, or from the above-mentioned parganahs and villages of the Nabha, Jhind, Patiala, and Dujána States which adjoin Rajputana.

5. This Circular supersedes the following orders on the subject of the importation of Málwa Opium :—

Circular No. 6 of 1882 ; Circular No. 29 of 1882 ; Circular No. 33 of 1882.

*Rules regarding the Import of Malwa Opium into the Punjab.*

1. The 1200 maunds of Málwa Opium for the yearly import of which on payment of ¼th duty, or Rs. 175 per chest of 140½ lbs., permission has been granted by the Government of India, will be allotted annually by the Financial Commissioner to different districts. The order of allotment will state whether the amount of opium allotted to each district is to be imported from Indore or from Ajmere, or from both places, and in the latter case in what proportions.

2. Each Deputy Commissioner may issue permits addressed to the Opium Agent Indore or Ajmere for the import of Málwa Opium on payment of ¼th duty to an amount not exceeding the total allotment for his district. When the allotment for the year has been exhausted, no further permits for import on payment of ¼th duty may be issued ; but permits may be granted for import on payment of the full duty of Rs. 700 per chest.

If after his allotment is exhausted the Deputy Commissioner considers it advisable to obtain permission to import more Málwa Opium on payment of ¼th duty, he may apply to this office, and a transfer from a district whose allotment appears likely to be in excess of its requirements will if possible be arranged.

3. The original allotments for each district on Indore or Ajmere as the case may be, and all transfers of allotments subsequently made will be reported by this office to the Opium Agent at Indore and the Commissioner, Ajmere, respectively.

4. All permits granted for the import of Málwa Opium shall show on the face of them whether the permit is addressed to the Opium Agent, Indore or Ajmere, and whether the import is to be subject to payment of ¼th duty or of the full duty, and at the foot of the permit a note will be entered stating the total amount of Málwa Opium for the import of which, on payment of ¼th duty, permits have already been granted during the year by the Deputy Commissioner issuing the permit to the Opium Agent concerned. The permits shall show in detail—

Name of importer.

Name of consignee.

Quantity (in chests of 140½lbs. each).

Destination.

Route { by Railway.  
by Road.

Period (within which the opium can be exported from Malwa)

A duplicate of the permit shall be sent by post to the Deputy Opium Agent in Málwa, Indore or Ajmere, as the case may be, by the Deputy Commissioner issuing the permit.

5. An importer who has obtained a permit may buy Málwa Opium in any of the States in which it is grown, but he must take it to the scales at Indore or Ajmere, according to whether his permit is addressed to the Opium Agent, Indore or Ajmere, and deliver his permit to the Deputy Opium Agent stationed at such place.

6. The Deputy Opium Agent on receiving the duty payable, will grant an export pass showing the name of the exporter, the amount of opium to be exported, the Deputy Commissioner to whom it is consigned, the route by Railway and Bullock train, the period during which the pass shall remain in force, and the Revenue Officer under authority of whose permit the pass is granted. Málwa Opium can only be imported into the Punjab by the Ralum-Neebuch-Ajmere line of Railway.

The pass will be sent to the railway authorities with the consignment, who will, after recovering all necessary charges from the exporter, consign the opium to the Deputy Commissioner mentioned in the pass. Opium intended for export to the districts of Karnal, Hissar, Sirsa, and Rohtak shall be consigned to the Deputy Commissioner of Delhi.

7. The export pass shall be delivered to the Deputy Commissioner along with the opium consigned to him.

8. On receipt of the opium, the Deputy Commissioner will examine the consignment with the passport covering the same and with the advice of the despatch of opium for forwarded to him by the Deputy Opium Agent.

9. The Deputy Commissioner will then deliver the opium to the importer to whom he had granted the permit authorizing the import. Before delivery, the amount will be again compared with the amount entered in the export pass.

[*Note.*—In the case of opium intended for Karnal, Hissar, Rohtak or Sirsa, the Deputy Commissioner of Delhi to whom it will be consigned (Rule 6), and not the Deputy Commissioner who originally granted the import permit, will deliver the opium to the importer.

To ensure a proper check in such cases, the Financial Commissioner prescribes the following procedure. Before making over the opium to the importer the Deputy Commissioner of Delhi, or his Assistant in charge of Excise, will compare the weight of the opium received with the amount entered in the advice and passport as required by Rule 8. He will afterwards cause the packages to be carefully sealed with his own seal and then carry out, so far as it is applicable, the procedure in regard to the transport of opium from one district to another, prescribed in the 24th of the Rules issued under the Opium Act.]

10. After delivery of the opium the Deputy Commissioner will return the export pass covering the consignment *en route* duly cancelled to the Opium Agent at Indore or Ajmere, as the case may be.

11. The duty levied by the Deputy Opium Agent will be remitted either by Hundi or by Remittance Transfer Receipt to the Financial Commissioner, Punjab.

12. It must be clearly understood that permits for the import of Málwa Opium at the reduced rate of duty can only be granted by the Deputy Commissioner of those districts to which an allotment has been made by the Financial Commissioner. — *Financial Commissioner's Circular No 49 of 1882*).

(c). In continuation of this office Book Circular XII of 1881, forwards for careful compliance, a copy of Government of India, Department of Finance and Commerce, Circular Letter No. 196, dated 13th April 1882:—

*No 196, dated Simla, the 13th April 1882.*

*From—The Offg Under Secretary to the Govt of India, Dept. of Finance and Commerce,*

*To—The Secretary to Government, Punjab*

IN supersession of the instructions regarding reports on smuggled opium, contained in this Department letter No. 2245, dated 12th August 1881, I am directed to request observance of the following procedure

2. When opium smuggled from another Province is seized, and a prosecution has resulted in the conviction of the person in possession of the drug, a report embodying the name of the person or persons accused, together with the deposition of the informers and the person accused, or other suitable information with special reference to the manner in which, from whom, and from what place, the opium was obtained, should be forwarded immediately to the Local Government or Administration within whose jurisdiction the drug is alleged to have been procured, and to this Department. The Local Government or Administration receiving the report shall see that the case is actively followed up, and that every endeavour is made to trace and bring to justice the cultivators or other person by whom the opium was illicitly sold.

3. With regard to the smuggling of local opium detected locally, this Department should be furnished with a special report of each important case discovered.

(Financial Commissioner's Circular No 28 of 1882).

See also Financial Commissioner's Circulars Nos 13, 25 and 34 of 1887

(d). For a revised form of the quarterly return of excise income (including opium and drugs), see Financial Commissioner's Circular No 25 of 1886

## ACT NO. VI of 1878

(Passed on the 13th February 1878).

An Act to amend the law relating to Treasure Trove.

Whereas it is expedient to amend the law relating to treasure trove ; It is hereby enacted as follows :—

### *Preliminary.*

Short title

1. This Act may be called "The Indian Treasure Trove Act, 1878."

Extent

It extends to the whole of British India ;

Commencement

And it shall come into force at once.

Repeal of enactments

2. The enactments specified in the schedule hereto annexed shall be repealed to the extent mentioned in the third column of the same schedule.

Interpretation clause

3. In this Act—

"Treasure "

"Treasure" means anything of any value hidden in the soil, or in anything affixed thereto :

"Collector" means (1) any revenue officer in independent charge of a district, and (2) any officer appointed by the Local Government to perform the functions of a Collector

"Collector "

under this Act.

When any person is entitled, under any reservation in an instrument of transfer of any land or thing affixed thereto, to treasure in such land or thing, he shall for the purposes of this Act, be deemed to be the owner of such land or thing.

Owner

### *Procedure on finding Treasure.*

4. Whenever any treasure, exceeding in amount or value ten rupees is found, the finder shall, as soon as practicable, give to the Collector notice in writing—

Notice by finder of treasure.

(a) of the nature and amount or approximate value of such treasure,

(b) of the place in which it was found ;

(c) of the date of the finding ;

and either deposit the treasure in the nearest Government Treasury, or give the Collector such security as the Collector thinks fit, to produce the treasure at such time and place as he may, from time to time, require.

5. On receiving a notice under section four, the Collector shall, after making such enquiry (if any) as he thinks fit, take the following steps (namely):—

Notification requiring claimants to appear.

(a) he shall publish a notification in such manner as the Local Government, from time to time, prescribes in this behalf, to the effect that, on a certain date (mentioning it) certain treasure (mentioning its nature, amount, and

*approximate value*), was found in a certain place (*mentioning it*) ; and requiring all persons claiming the treasure, or any part thereof, to appear personally or by agent before the Collector on a day at a place therein mentioned such day not being earlier than four months, or, later than six months, after the date of the publication of such notification ;

(b) when the place in which the treasure appears to the Collector to have been found was, at the date of the finding, in the possession of some person other than the finder, the Collector shall also serve on such person a special notice in writing to the same effect.

6. Any person having any right to such treasure or any part thereof as owner of the place in which it was found or otherwise ; and not appearing as required by the notification issued under section five, shall forfeit such right.

Forfeiture of right on failure to appear.

7. On the day notified under section five, the Collector shall cause the treasure to be produced before him, and shall enquire as to and determine—

Matters to be enquired into and determined by the Collector

(a) the person by whom, the place in which, and the circumstances under which, such treasure was found ; and

(b) as far as is possible, the person by whom, and the circumstances under which, such treasure was hidden.

8. If, upon an enquiry made under section seven, the Collector sees reason to believe that the treasure was hidden within one hundred years before the date of the finding by a person appearing as required by the said notification and claiming such treasure, or by some other person under whom such person claims, the Collector shall make an order adjourning the hearing of the case for such period as he deems sufficient, to allow of a suit being instituted in the Civil Court by the claimant, to establish his right.

Time to be allotted for suit by person claiming the treasure

9. If upon such enquiry the Collector sees no reason to believe that the treasure was so hidden ; or

When treasure may be declared ownerless

if, where a period is fixed under section eight, no suit is instituted as aforesaid within such period to the knowledge of the Collector ; or

if such suit is instituted within such period, and the plaintiff's claim is finally rejected ;

the Collector may declare the treasure to be ownerless.

Any person aggrieved by a declaration made under this section may appeal against the same within two months from the date thereof to the Chief Controlling Revenue Authority.

Appeal against such declaration.

Subject to such appeal, every such declaration shall be final and conclusive.

10. When a declaration has been made in respect of any treasure under section nine, such treasure shall, in accordance with the provisions hereinafter contained, either be delivered to the finder thereof, or be divided between him and the owner of the place in which it has been found in manner hereinafter provided.

Proceedings subsequent to declaration.

11. When a declaration has been made in respect of any treasure as aforesaid, and no person other than the finder of such treasure has appeared as required by the notification published under section five and claimed a share of the treasure as owner of the place in which it has been found, the Collector shall deliver such treasure to the finder thereof.

12. When a declaration has been made as aforesaid in respect of any treasure, and only one person other than the finder of such treasure has so appeared and claimed, and the claim of such person is not disputed by the finder, the Collector shall proceed to divide the treasure between the finder and the person so claiming according to the following rule (namely):—

If the finder and the person so claiming have not entered into any agreement then in force as to the disposal of the treasure, three-fourths of the treasure shall be allotted to such finder and the residue to such person. If such finder and such person have entered into any such agreement, the treasure shall be disposed of in accordance therewith:

Provided that the Collector may in any case, if he thinks fit, instead of dividing any treasure as directed by this section,

(a) allot to either party the whole or more than his share of such treasure, on such party paying to the Collector for the other party such sum of money as the Collector may fix as the equivalent of the share of such other party, or of the excess so allotted, as the case may be; or

(b) sell such treasure or any portion thereof by public auction and divide the sale-proceeds between the parties according to the rule hereinbefore prescribed:

Provided also, that when the Collector has by his declaration under section nine rejected any claim made under this Act by any person other than the said finder or person claiming as owner of the place in which the treasure was found, such division shall not be made until after the expiration of two months without an appeal having been presented under section nine by the person whose claim has been so rejected, or, when an appeal has been so presented, after such appeal has been dismissed.

When the Collector has made a division under this section, he shall deliver to the parties the portions of such treasure, or the money in lieu thereof, to which they are respectively entitled under such division.

13. When a declaration has been made as aforesaid in respect of any treasure, and two or more persons have appeared as aforesaid and each of them claimed as owner of the place where such treasure was found, or the right of any person who has so appeared and claimed is disputed by the finder of such treasure, the Collector shall retain such treasure and shall make an order staying his proceedings with a view to the matter being enquired into and determined by a Civil Court.

14. Any person who has so appeared and claimed may, within one month from the date of such order, institute a suit in the Civil Court to obtain a decree declaring his right; and in every such suit the finder of the treasure and all persons disputing such claim before the Collector shall be made defendants.



15. If any such suit is instituted and the plaintiff's claim is finally established therein, the Collector shall, subject to the provisions of section twelve, divide the treasure between him and the finder.

If no such suit is instituted as aforesaid, or if the claims of the plaintiffs in all such suits are finally rejected, the Collector shall deliver the treasure to the finder.

16. The Collector may, at any time after making a declaration under section nine, and before delivering or dividing the treasure as hereinbefore provided, declare by writing under his hand his intention to acquire on behalf of the Government the treasure, or any specified portion thereof, by payment to the persons entitled thereto of a sum equal to the value of the materials of such treasure or portion, together with one-fifth of such value, and may place such sum in deposit in his treasury to the credit of such persons; and thereupon such treasure or portion shall be deemed to be the property of Government, and the money so deposited shall be doct with, as far as may be, as if it were such treasure or portion.

Decision of Collector final, and no suit to be against him for acts done *bona fide*

17. No decision passed or act done by the Collector under this Act shall be called in question by any Civil Court, and no suit or other proceeding shall lie against him for anything done in good faith in exercise of the powers hereby conferred.

18. A Collector making any enquiry under this Act may exercise any power conferred by the Code of Civil Procedure on a Civil Court for the trial of suits.

Collector to exercise powers of Civil Court.

Power to make rules

19. The Local Government may, from time to time, make rules consistent with this Act, to regulate proceedings hereunder.

Such rules shall, on being published in the Local Gazette, have the force of law.

NOTE.—The Rules framed under this section will be found at the end of the Act.

#### *Penalties.*

20. If the finder of any treasure fails to give the notice, or does not either make the deposit or give the security required by section four, or alters or attempts to alter such treasure so as to conceal its identity, the share of such treasure, or the money in lieu thereof to which he would otherwise be entitled, shall vest in Her Majesty,

and he shall, on conviction before a Magistrate, be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

21. If the owner of the place in which any treasure is found abets, within the meaning of the Indian Penal Code, any offence under section twenty, the share of such treasure, or the money in lieu thereof to which he would otherwise be entitled, shall vest in Her Majesty,

and he shall, on conviction before a Magistrate, be punished with imprisonment which may extend to six months, or with fine, or with both.

## SCHEDULE.

Number and date of enactments.	Title or subject.	Extent of repeal.
Bengal Regulation V of 1817.	A Regulation for declaring the rights of Government and of individuals with respect to hidden treasure, and for prescribing the rules to be observed on the discovery of such treasure.	The whole.
Madras Regulation XI of 1832.	A Regulation for declaring the rights of Government and of individuals with respect to hidden treasure, and for prescribing the rules to be observed on discovery of such treasure.	The whole.
Act XII of 1833 ...	Hidden Treasure (Madras).	The whole.
Act IV of 1872. ...	An Act for declaring which of certain rules, laws and regulations have the force of law in the Punjab and for other purposes.	So far as regards Bengal Regulation V of 1817.
Act XV of 1874 ...	Laws Local Extent ... ..	The second schedule, so far as regards Madras Regulation XI of 1832 and Act XII of 1833. The fourth schedule, so far as regards Bengal Regulation V of 1817.
Act XVII of 1875 ...	An Act to consolidate and amend the law relating to the Courts in British Burma, and for other purposes.	So far as regards Bengal Regulation V of 1817.
Act XX of 1875 ...	An Act to declare and amend the law in force in the Central Provinces.	Ditto.
Act XVIII of 1876 ...	Oudh Laws Act ... ..	Ditto.

NOTES.—(a). Attention is drawn to the Rules under the Treasure Trove Act, VI of 1878, hereto annexed, and to the following subsidiary instructions issued by the Financial Commissioner, with the approval of Government, in supersession of former orders on the subject.

2. The date in the notification under Section 5 (a) of the Act, in the terms of Form A. of rule I, for the enquiry under that section, should always be, as therein required, not earlier than four months, and not later than six months, from the date of the publication of the notification. Careful attention to this point is necessary, as a material error in the period fixed might vitiate the subsequent proceedings.

3. The object of the report to Government through the Financial Commissioner, prescribed in rule IV, is that Government may be enabled to determine whether specimens of ancient coins and articles of antiquarian interest are to be offered to the Asiatic Society, Calcutta, or other scientific bodies, and what specimens, if any, are to be sent to the Central Museum at Lahore.

4. Commissioners and Deputy Commissioners should take measures to prevent any appropriation of coins, sculptures, or other articles or remains of architectural or antiquarian interest from any Government lands, and to prohibit any excavation whatever in such lands by private individuals, without the special sanction of Government.

## HOME DEPARTMENT.

*Notification—No. 735, dated 21st February 1879.*

The following rules are prescribed by the Hon'ble the Lieutenant-Governor, Panjab, under Section 19 of the Treasure Trove Act, VI of 1878, to regulate proceedings under that Act:—

I.—The notification required by Section 5 of the Act shall be in the following form:—

## FORM A.

*Notification under Section 5 of the Treasure Trove Act, VI of 1878*

Whereas on the ( ) date), treasure of the following description and value ( ) was found by (person) in (place), all persons claiming the said treasure, or any part thereof, are hereby required to appear personally, or by agent, before the Deputy Commissioner, of (district) on the day of 18 at the (district Kutcherry, or on the spot, if necessary, or such other place as may be convenient) in order that inquiry may be made concerning and orders may be passed as to the disposal of, the said treasure pursuant to the provisions of the said Act.

Date

Signature of

*Deputy Commissioner*

NOTE.—The notice in Form A should also be served on the "owner" of the place, if he is known.

II.—The notice to the person in possession of the land or thing in which the treasure was found, required to be served on such person under Section 5, clause (b), shall be in the same terms as the above, and shall in addition contain the following words at the end:—

## FORM B

And whereas the place where the said treasure was found by the said (name of finder) is believed to have been, on the date of the said finding, in your possession, your attendance at the enquiry is specially required, failing which your right to a share of the treasure will be forfeited, as prescribed in Section 6 of the Act

Date

Signed

*Deputy Commissioner.*

III.—The above notification and notice shall be in English and vernacular, and copies of Form A shall be posted up at the District Kutcherry, at the Tashil, in the village where the find took place, at or near the spot where the treasure was found if the Deputy Commissioner approve, and in such other places as the Deputy Commissioner may think proper

IV.—When the treasure found consists of ancient coins, sculptures, or other articles of antiquarian interest whatsoever, the Deputy Commissioner shall before delivering or dividing the treasure under Section 11 or 12, report the same through the Commissioner and Financial Commissioner for the information of Government, with a view to obtaining instructions as to whether the treasure is to be acquired on behalf of Government, in the manner prescribed in Section 16 of the Act.

V.—Appeals to the Financial Commissioner from the orders of the Deputy Commissioner under Section 9 of the Act, shall be dealt with under the orders for the time being in force regarding administrative appeals of the Revenue Department, except that there shall be no intermediate appeal to the Commissioner

VI.—The special notice prescribed by Section 5 (b) shall, so far as is consistent with the Act under which these rules are framed, be served in the manner provided by the Code of Civil Procedure for the service of a summons

VII.—Where two or more persons are in possession of the place in which the treasure appears to have been found, the service shall, subject to the limitation in rule VI above, conform to the rules for the service of a summons upon two or more defendants contained in the Code of Civil Procedure —(*Financial Commissioner's Book Circular No II of 1879*).

(b).—For instructions for dealing with coins found under the above Act, see Government of India Resolution No. 46—1868-82, dated 9th October 1884, and see Financial Commissioner's Circular No 48 of 1884

**ACT No. VII of 1878.***(Passed on 8th March 1878).*

An Act to amend the law relating to Forests, the transit of forest produce, and the duty leviable on timber.

Whereas it is expedient to amend the law relating to forests, the transit of forest-produce, and the duty leviable on timber; It is hereby enacted as follows:—

Preamble.

**CHAPTER I.****PRELIMINARY.**

1. This Act may be called "The Indian Forest Act, 1878;"

Short title.

It shall come into force at once in the territories respectively administered by the Governor of Bombay in Council, the Lieutenant-Governors of the Lower Provinces, the North-Western Provinces, and the Punjab (except the District of Hazara), and the Chief Commissioners of Oudh, the Central Provinces, and Assam.

Commencement

And any other Local Government may from time to time, with the previous sanction of the Governor-General in Council, extend, by notification in the local official Gazette, this Act to all or any of the territories for the time being under its administration.

Extension

On and from the date on which this Act comes into force in any of the said territories, the enactments mentioned in the schedule hereto annexed shall be repealed in such territories. But all rules made under or validated by any of the said enactments and in force at the date of such repeal shall, so far as they are consistent with this Act, be deemed to have been made and published hereunder.

Repeal of enactments.

Interpretation-clause.

2. In this Act, unless there be something repugnant in the subject or context,—

"Forest-officer" means any person whom the Governor-General in Council, or the Local Government, or any officer empowered by the Governor-General in Council or the Local Government in this behalf, may, from time to time, appoint by name, or as holding an office, to carry out all or any of the purposes of this Act, or to do anything required by this Act or any rule made under this Act to be done by a forest-officer:

"Tree" includes bamboos, stumps, and brushwood:

"Timber" includes trees and bamboos when they have fallen or have been felled, and all wood, whether cut up, or fashioned, or hollowed-out for cart-wheels, mortars, canoes, or other purposes, or not:

"Forest-produce" includes the following when found in, or brought from a forest, that is to say,—

minerals (including limestone and laterite), surface soil, trees, timber, grass, peat, canes, creepers, reeds, leaves, moss, flowers, fruits, roots, juice, catechu, bark, honey, wax, lac, caoutchouc, gum, wood-oil, grass-oil, resin, varnish, silk-worms and cocoons, shells, skins, tusks, bones, and horns:

"Forest-offence" means an offence punishable under this Act, or under any rule made under this Act:

“Cattle” includes elephants, camels, buffaloes, horses, mares, geldings, ponies, colts, fillies, mules, asses, pigs, rams, ewes, sheep, lambs, goats, and kids :

“River” includes streams, canals, creeks, and other channels, natural or artificial.

## CHAPTER II.

### OF RESERVED FORESTS.

3. The Local Government may, from time to time, constitute any forest-land or waste-land which is the property of Government, or over which the Government has proprietary rights, or to the whole or any part of the forest-produce of which the Government is entitled, a reserved forest in the manner hereinafter provided.

NOTE.—For a list of reserved forests, see Note (a) at end of this Act.

4. Whenever it is proposed to constitute any land a reserved forest, Notification by Local Government. the Local Government may publish a notification in the local official Gazette—

(a) declaring that it is proposed to constitute such land a reserved forest ;

(b) specifying the limits of such forest ; and

(c) appointing an officer (hereinafter called “the forest settlement officer”) to inquire into and determine the existence, nature, and extent of any rights alleged to exist in favor of any person in or over any land comprised within such limits, or in or over any forest-produce, and to deal with the same as provided in this chapter.

*Explanation 1.*—For the purpose of clause (b) of this section, it shall be sufficient to describe the limits of the forest by roads, rivers, ridges, or other well-known or readily intelligible boundaries.

The officer appointed under clause (c) of this section shall ordinarily be a person not holding any forest-office except that of forest settlement officer.

Nothing in this section shall prevent the Local Government from appointing any number of officers not exceeding three, not more than one of whom shall be a person holding any forest-office except as aforesaid, to perform the duties of a forest settlement officer under this Act.

5. During the interval between the publication of such notification and the date fixed by the notification under section Bar of accrual of forest- rights. nineteen, no right shall be acquired in or over the land comprised in such notification, except by succession or under a grant or contract in writing made or entered into by or on behalf of Government or some person in whom such right was vested when the former notification was issued ; and no fresh clearings for cultivation or for any other purpose shall be made in such land.

6. When a notification has been issued under section four, the forest Proclamation by forest settlement officer settlement officer shall publish in the language of the country, in every town and village in the neighbourhood of the land comprised therein, a proclamation—

- (a) specifying the limits of the proposed forest ;
- (b) explaining the consequences which, as hereinafter provided, will ensue on the reservation of such forest ; and

(c) fixing a period of not less than three months from the date of such proclamation, and requiring every person claiming any right mentioned in section four or five either to present to such officer within such period a written notice specifying, or to appear before him and state, the nature of such right and the amount and particulars of the compensation (if any) claimed in respect thereof.

**7.** The forest settlement officer shall take down in writing all statements made under section six, and shall, at some convenient place, enquire into all claims duly preferred under that section, and the existence of any rights mentioned in section four or five and not claimed under section six, so far as the same may be ascertainable from the records of Government and the evidence of any persons likely to be acquainted with the same.

**8.** For the purposes of such enquiry, the forest settlement officer may exercise the following powers, that is to say :

(a) power to enter, by himself or any officer authorized by him for the purpose, upon any land, and to survey, demarcate, and make a map of the same ; and

(b) the powers of a Civil Court in the trial of suits.

**9.** Rights in respect of which no claim has been preferred under section six, and of the existence of which no knowledge has been acquired by enquiry under section seven, shall be extinguished, unless before the notification under section nineteen is published the person claiming them satisfies the forest settlement officer that he had sufficient cause for not preferring such claim within the period fixed under section six.

**10.** In the case of a claim to a right in or over any land, other than a right of way or pasture, or to forest-produce or a watercourse, the forest settlement officer shall pass an order admitting or rejecting the same in whole or in part.

If such claim is admitted in whole or in part, the forest settlement officer, shall either—

- (1) exclude such land from the limits of the proposed forest ; or
- (2) come to an agreement with the owner thereof for the surrender of his rights ; or

(3) proceed to acquire such land in the manner provided by the Land Acquisition Act, 1870.

For the purpose of so acquiring such land—

(a) the forest settlement officer shall be deemed to be a Collector proceeding under the Land Acquisition Act, 1870 :

(b) the claimant shall be deemed to be a person interested and appearing before him in pursuance of a notice given under section nine of that Act :

(c) the provisions of the preceding sections of that Act shall be deemed to have been complied with ; and

(d) the Collector, with the consent of the claimant, or the Court, with the consent of both parties, may award compensation in land, or partly in land and partly in money.

11. In the case of a claim to rights of pasture or to forest-produce, the forest settlement officer shall pass an order admitting or rejecting the same in whole or in part.

Order on claims to rights of pasture or to forest-produce.

12. The forest settlement officer, when passing any order under section eleven, shall record, so far as may be practicable,—

Record to be made by forest settlement officer

(a) the name, father's name, caste, residence and occupation of the person claiming the right ;

(b) the designation, position, and area of all fields or groups of fields (if any), in respect of which the exercise of such rights is claimed.

13. If the forest settlement officer admits in whole or in part any claim under section eleven, he shall also record the extent to which the claim is so admitted, specifying the number and description of the cattle which the claimant is from time to time entitled to graze in the forest, the season during which such pasture is permitted, the quantity of timber and other forest-produce which he is from time to time authorized to take or receive, or such other particulars as the case may require. He shall also record whether the timber or other forest-produce obtained by the exercise of the rights claimed may be sold or bartered.

Record where he admits claim.

14. After making such record, the forest settlement officer shall, to the best of his ability, and having due regard to the maintenance of the reserved forest in respect of which the claim is made, pass such orders as will ensure the continued exercise of the rights so admitted. For this purpose, the forest settlement officer may—

Exercise of rights admitted

(a) set out some other forest-tract of sufficient extent, and in a locality convenient for the purpose of such claimants, and record an order conferring upon them a right of pasture or to forest-produce (as the case may be) to the extent so admitted ; or

(b) so alter the limits of the proposed forest as to exclude forest-land of sufficient extent, and in a locality reasonably convenient, for the purposes of the claimants; or

(c) record an order, continuing to such claimants a right of pasture or to forest-produce (as the case may be), to the extent so admitted, at such seasons, within such portions of the proposed forest, and under such rules as may from time to time be prescribed by the Local Government.

15. In case the forest settlement officer finds it impossible, having due regard to the maintenance of the reserved forest, to make such settlement under section fourteen as shall ensure the continued exercise of the said rights to the extent so admitted, he shall (subject to such rules as the Local Government may from time to time prescribe in this behalf) commute such rights, either by the payment to such persons of a sum of money in lieu thereof, or by the grant of land, or in such other manner as he thinks fit.

Commutation of rights.

**16.** Any person who has made a claim under this Act, or any forest-officer or other person generally or specially empowered by the Local Government in this behalf, may within three months from the date of the order passed on such claim by the forest settlement officer under section ten, eleven, fourteen or fifteen, present an appeal from such order to such officer of the Revenue Department, of rank not lower than that of a Collector or Deputy Commissioner, as the Local Government may from time to time, by notification in the local official Gazette, appoint by name, or as holding an office, to hear appeals from such orders :

Provided that if the Local Government establishes (as it is hereby empowered to do) a Court (hereinafter called the Forest—Court) composed of three persons to be appointed by the Local Government, such appeals shall be presented to such Court.

NOTES.—(a). In continuation of *Punjab Government Gazette* Notification No. 131 F., dated 4th April 1884, the Hon'ble the Lieutenant-Governor is pleased, in exercise of the authority vested in him by Section 16 of the Indian Forest Act, 1878, to appoint the Commissioner of Delhi, for the time being, to hear appeals from the orders of the Forest Settlement Officer of the Hissar District. (*Notification* No. 15, dated 21st January 1887, *Punjab Gazette* of 27th *idem*, Part I, p. 25).

(b). In continuation of *Punjab Government Gazette* Notification No. 322, dated the 1st August 1883, the Hon'ble the Lieutenant-Governor is pleased, in exercise of the authority vested in him by Section 16 of the Indian Forest Act, 1878, to appoint the Commissioner of Rawalpindi for the time being to hear appeals from the orders of the Forest Settlement Officer of the Gujrat District. (No. 30, dated 2nd February 1887, *Punjab Gazette* of 3rd *idem*, Part I, p. 33)

**17.** Every appeal under section sixteen shall be made by petition in writing, and may be delivered to the forest settlement officer, who shall forward it without delay to the authority competent to hear the same.

If the appeal be to an officer appointed under section sixteen, it shall be heard in the manner prescribed for the time being for the hearing of appeals in matters relating to land-revenue.

If the appeal be to the Forest-Court, the Court shall fix a day and a convenient place in the neighbourhood of the proposed forest for hearing the appeal, and shall give notice thereof to the parties, and shall hear such appeal accordingly.

The order passed thereon by such officer or Court, or by the majority of the members of such Court, shall be final, subject to revision by the Local Government.

**18.** The Local Government, or any person who has made a claim under this Act, may appoint any person to appear, plead and act on its or his behalf before the forest settlement officer or the appellate officer or Court, in the course of any inquiry or appeal under this Act.

Notification declaring forest reserved.

**19.** When the following events have occurred (namely),

(a) the period fixed under section six for preferring claims has lapsed, and all claims (if any) made within such period have been disposed of by the forest settlement officer ; and



(b) if such claims have been made, and the period limited by section sixteen for appealing from the orders passed on such claims has elapsed, and all appeals (if any) presented within such period have been disposed of by the appellate officer or Court ; and

(c) all lands (if any) to be included in the proposed forest, which the forest settlement officer has, under section ten, elected to acquire under the Land Acquisition Act, 1870, have become vested in the Government under section sixteen of that Act.

the Local Government may publish a notification in the local official Gazette specifying definitely, according to boundary-marks erected or otherwise, the limits of the forest which it is intended to reserve, and declaring the same to be reserved from a date fixed by such notification. From the date so fixed, such forest shall be deemed to be a reserved forest.

NOTE.—See Note (a) at the end of the Act

**20.** The forest-officer shall, before the date fixed by such notification, cause a translation thereof into the language of the country to be published in every town and village in the neighbourhood of the forest.

Publication of translation of such notification in neighbourhood of forest.

**21.** The Local Government may, within five years from the publication of any notification under section nineteen, revise any arrangement made under section fourteen or seventeen, and may, for this purpose, rescind or modify any order made under section fourteen or seventeen, and direct that any one of the proceedings specified in section fourteen be taken in lieu of any other of such proceedings, or that the rights admitted under section eleven be commuted under section fifteen.

Power to revise arrangement made under Section 14 or 17

**22.** No right of any description shall be acquired in or over a reserved forest, except by succession or under a grant or contract in writing made by or on behalf of the Government or of some person in whom such right was vested when the notification under section nineteen was issued.

No right acquired over reserved forest, except as here provided

**23.** Notwithstanding anything contained in section twenty-two, no right continued under section fourteen, clause (c), shall be alienated by way of grant, sale, lease, mortgage, or otherwise without the sanction of the Local Government : provided that when any such right is appendant to any land or house, it may be sold or otherwise alienated with such land or house. No timber or other forest-produce obtained in exercise of any such right shall be sold or bartered except to such extent as may have been admitted in the order recorded under section thirteen.

Rights not to be alienated without sanction

**24.** The forest-officer may from time to time, with the previous sanction of the Local Government or of any officer duly authorized in that behalf, stop any public or private way or water-course in a reserved forest : provided that a substitute for the way or water-course so stopped, which the Local Government deems to be reasonably convenient, already exists, or has been provided or constructed by the forest-officer in lieu thereof.

Power to stop ways and water-courses in reserved forests

Acts prohibited in such forest:

**25.** Any person who—

(a) makes any fresh clearing prohibited by section five, or

(b) sets fire to a reserved forest, or kindles any fire in such manner as to endanger the same ;

or who, in a reserved forest,—

(c) kindles, keeps, or carries any fire except at such seasons as the forest-officer may from time to time notify in this behalf ;

(d) trespasses or pastures cattle or permits cattle to trespass ;

(e) causes any damage by negligence in felling any tree or cutting or dragging any timber ;

(f) fells, girdles, lops, taps, or burns any tree, or strips-off the bark or leaves from, or otherwise damages the same ;

(g) quarries stone, burns lime or charcoal, or collects, subjects to any manufacturing process, or removes, any forest-produce ;

(h) clears or breaks up any land for cultivation, or any other purpose ; or

(i) in contravention of any rules which the Local Government may from time to time prescribe, kills or catches elephants, hunts, shoots, fishes, poisons water, or sets traps or snares ;

shall be punished with imprisonment for a term which may extend to six months, or with fine not exceeding five hundred rupees or with both, in addition to such compensation for damage done to the forest as the convicting Court may direct to be paid.

Nothing in this section shall be deemed to prohibit

(a) any act done by permission in writing of the forest-officer, or under any rule made by the Local Government : or

(b) the exercise of any right continued under section fourteen, clause (c), or created by grant or contract in writing made by or on behalf of Government under section twenty-two.

Whenever fire is caused wilfully or by gross negligence in a reserved forest, the Local Government may (notwithstanding that any penalty has been inflicted under this section) direct that in such forest or any portion thereof the exercise of all rights of pasture or to forest-produce shall be suspended for such period as it thinks fit.

NOTE —For Rules under the 1st clause of this section see Note (d)

**26.** The Local Government may, with the previous sanction of the Governor-General in Council, by notification in the local official Gazette, direct that, from a date fixed by such notification, any forest or any portion thereof reserved under this Act shall cease to be a reserved forest. From the date so fixed, such forest or portion shall cease to be reserved ; but the rights (if any) which have been extinguished therein shall not revive in consequence of such cessation.

NOTE —For instructions in proceedings under this Chapter see Note (n) at end of Act.

### CHAPTER III.

#### OF VILLAGE-FORESTS.

**27.** The Local Government may, from time to time, assign to any village-community the rights of Government to or over any land which has been constituted a reserved forest, and may cancel such assignment. All forests so assigned shall be called village-forests. The Local Government may, from time to time, make

rules for regulating the management of village forests, prescribing the conditions under which the community to which any such assignment is made may be provided with timber or other forest-produce, or pasture, and their duties for the protection and improvement of such forest. All provisions of this Act relating to reserved forests shall (so far as they are consistent with the rules so made) apply to village-forests.

## CHAPTER IV.

### OF PROTECTED FORESTS.

**28.** The Local Government may, from time to time, by notification in the local official Gazette, declare the provisions of this chapter applicable to any forest-land or waste-land which is not included in a reserved forest, but which is the property of Government, or over which the Government has proprietary rights, or to the whole or any part of the forest-produce of which the Government is entitled.

The forest-land and waste-lands comprised in any such notification shall be called a "protected forest." No such notification shall be made unless the nature and extent of the rights of Government and of private persons in or over the forest-land or waste-land comprised therein have been enquired into and recorded at a survey or settlement, or in such other manner as the Local Government thinks sufficient. Every such record shall be presumed to be correct until the contrary is proved.

Provided that, if in the case of any forest-land or waste-land, the Local Government thinks that such enquiry and record are necessary, but that they will occupy such length of time as that the rights of Government will in the meantime be endangered, the Local Government may (pending such enquiry and record) declare such land to be a protected forest, but so as not to abridge or affect any existing rights of individuals or communities.

**Note**—See Note (b) at end of Act

**29.** The Local Government may, from time to time, by notification in the local official Gazette,—

(a) declare any class of trees in a protected forest, or any trees in any such forest, to be reserved from a date fixed by such notification,

(b) declare that a portion of such forest be closed for such term not exceeding twenty years as the Local Government thinks fit, and that the rights of private persons (if any) over such portion shall be suspended during such term, provided that the remainder of such forest be sufficient, and in a locality reasonably convenient, for the due exercise of the rights suspended in the portion so closed ;

(c) prohibit, from a date fixed as aforesaid, the quarrying of stone, or the burning of lime or charcoal, or the collection or subjection to any manufacturing process, or removal, of any forest-produce, in any such forest, and the breaking up or clearing for cultivation, for building, for herding cattle, or for any other purpose, any land in any such forest ; and

(d) alter or cancel such declaration or prohibition.

**Note**—See Note (c) at end of Act

**30.** The Collector or Deputy Commissioner of the district shall cause a translation into the language of the district, of every notification issued under section twenty-nine, to be fixed in a conspicuous place in every town and village in the neighbourhood of the forest comprised in the notification.

Publication of translation of such notification in neighbourhood  
Power to make rules for protected forests

**31.** The Local Government may from time to time make rules to regulate the following matters :—

(a) the cutting, sawing, conversion, and removal of trees and timber, and the collection, manufacture, and removal of forest-produce, from protected forests ;

(b) the granting of licenses to the inhabitants of towns and villages in the vicinity of protected forests to take trees, timber, or other forest-produce for their own use, and the production and return of such licenses by such persons ;

(c) the granting of licenses to persons felling or removing trees or timber or other forest-produce from such forests for the purposes of trade, and the production and return of such licenses by such persons ;

(d) the payments ( if any ) to be made by the persons mentioned in clauses (b) and (c) of this section, for permission to cut such trees, or to collect and remove such timber or other forest-produce ;

(e) the other payments, if any, to be made by them in respect of such trees, timber, and produce, and the places where such payments shall be made ;

(f) the examination of forest-produce passing out of such forests ;

(g) the clearing and breaking up of land for cultivation or other purposes in such forests ,

(h) the protection from fire of timber lying in such forests and of trees reserved under section twenty-nine ;

(i) the cutting of grass and pasturing of cattle in such forests ;

(j) killing or catching elephants, hunting, shooting, fishing, poisoning water, and setting traps or snares in such forests ,

(k) the protection and management of any portion of a forest closed under section twenty-nine ;

(l) the exercise of rights referred to in section twenty-eight.

NOTE.—See Note (f) at the end of the Act

Penalties for acts in contravention of notification under Section 29

**32.** Any person who commits any of the following offences.—

(a) fells, girdles, lops, taps, or burns any tree reserved under section twenty-nine, or strips off the bark or leaves from, or otherwise damages any such tree ;

(b) contrary to any prohibition under section twenty-nine, quarries any stone, or burns any lime or charcoal, or collects, subjects to any manufacturing process, or removes, any forest-produce ;

(c) contrary to any prohibition under section twenty-nine, breaks up or clears for cultivation or any other purpose any land in any protected forest ;

(d) sets fire to such forest, or kindles a fire without taking all reasonable precautions to prevent its spreading to any trees reserved under section

twenty-nine, whether standing, fallen, or felled, or to any closed portion of such forest ;

(e) leaves burning any fire kindled by him in the vicinity of any such trees or closed portion ;

(f) fells any tree or drags any timber so as to damage any tree reserved as aforesaid ;

(g) permits cattle to damage any such tree ;

(h) infringes any rule made under section thirty-one ;

shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

33. Nothing in this chapter shall be deemed to prohibit any act done

Nothing in this chapter with the permission in writing of the forest-officer, to prohibit acts done in or in accordance with rules made under section certain cases thirty-one, or (except as regards any portion of a forest closed under section twenty-nine) in the exercise of any right recorded under section twenty-eight.

#### CHAPTER V.

##### FORESTS UNDER CONSERVANCY ADMINISTRATION WHEN THIS ACT COMES INTO FORCE.

34. Within twelve months from the date on which this Act comes into force, in the territories administered by any Local Government, such Government shall, after consideration of the rights of the Government and private persons in all forest-lands or waste-lands then under its executive control for purposes of forest conservancy, determine which of such lands (if any) can, according to justice, equity and good conscience, be classed as reserved forests or protected forests under this Act, and declare, by notification in the local official Gazette, any lands so classed to be reserved or protected forests, as the case may be :

Provided that such declaration shall not affect any rights of the Government or private persons to or over any land or forest-produce in any such forest, which have, previous to the date of such declaration, been enquired into, settled, and recorded in a manner which the Local Government thinks sufficient :

Provided also that if any such rights have not on such date been so enquired into, settled, and recorded, the Local Government shall direct that the same shall be enquired into, settled, and recorded in the manner provided by this Act for reserved or protected forests, as the case may be ; and until such enquiry, settlement, and record have been completed, no such declaration shall abridge or affect such rights.

#### CHAPTER VI.

##### OF THE CONTROL OVER FORESTS AND LANDS NOT BEING THE PROPERTY OF GOVERNMENT.

35. The Local Government may, from time to time, by notification in the local official Gazette, regulate or prohibit in any forest or waste-land—

Protection of forests for special purposes.

(a) the breaking up or clearing of land for cultivation ;

- (b) the pasturing of cattle ;
- (c) the firing or clearing of the vegetation :

when such regulation or prohibition appears necessary for any of the following purposes :—

*First.*—For protection against storms, winds, rolling stones, floods and avalanches ;

*Second.*—For the preservation of the soil on the ridges and slopes, and in the valleys, of hilly tracts, the prevention of landslips and of the formation of ravines and torrents, and the protection of land against erosion, or the deposit thereon of sand, stones, or gravel ;

*Third.*—For the maintenance of a water-supply in springs, rivers, and tanks ;

*Fourth.*—For the protection of roads, bridges, railways, and other lines of communication ;

*Fifth.*—For the preservation of the public health ;  
and may alter or cancel such notification.

The Local Government may, for any such purpose, construct at its own expense, in or upon any forest or waste-land, such work as it thinks fit :

Provided that no such notification shall be made or work begun until after the issue of a notice to the owner of such forest or land, calling on him to show cause, within a reasonable period to be specified in such notice, why such notification should not be made or work constructed, and until his objections (if any) and any evidence he may produce in support of the same have been heard by an officer duly appointed in that behalf, and have been considered by the Local Government.

**36.** In case of neglect of, or wilful disobedience to, any regulation or prohibition under section thirty-five, or if the purposes of any work to be constructed under that section so require, the Local Government may after notice in writing to the owner of such forest or land, and after considering his objections (if any), place the same under the control of a forest officer, and may declare that all or any of the provisions of this Act relating to reserved forests shall apply to such forest or land.

The nett profits (if any) arising from the management of such forest or land shall be paid to the said proprietor.

**37.** In any case under this chapter in which the Local Government considers that, in lieu of placing the forest or land under the control of a forest officer, the same should be acquired for public purposes, the Local Government may proceed to acquire it in the manner prescribed by the Land Acquisition Act, 1870.

The owner of any forest or land comprised in any notification under section thirty-five may, at any time not less than three or more than twelve years from the date thereof, require that such forest or land shall be acquired for public purposes, and the Local Government shall acquire such forest or land accordingly.

**38.** The owner of any land or, if there be more than one owner thereof, the owners of shares therein amounting in the aggregate to at least two-thirds thereof, may, with a view to the formation or conservation of forests thereon, represent in writing to the Collector or Deputy Commissioner their desire—

(a) that such land be managed on their behalf by the forest-officer as a reserved or a protected forest on such terms as may be mutually agreed upon ; or

(b) that all or any of the provisions of this Act be applied to such land.

In either case, the Local Government may, by notification in the local official Gazette, apply to such land such provisions of this Act as it thinks suitable to the circumstances thereof and as may be desired by the applicants.

Any such notification may be altered or cancelled by a like notification.

## CHAPTER VII.

### OF THE DUTY ON TIMBER.

**39.** The Local Government, with the previous sanction of the Governor-General in Council, may levy a duty in such manner at such places, and at such rates, as it may, from time to time, prescribe by notification in the local official Gazette on all timber—

(a) which is produced in British India, and in respect of which the Government has any right ;

(b) which is brought from any place beyond the frontier of British India

In every case in which such duty is directed to be levied *ad valorem*, the Local Government may, with the like sanction, from time to time fix, by like notification, the value on which such duty shall be assessed.

All duties on timber, which, at the time when this Act comes into force in any territory, are levied therein under the authority of the Local Government, shall be deemed to be and to have been duly levied under the provisions of this Act.

**40.** Nothing in this chapter shall be deemed to limit the amount (if any) chargeable as purchase-money or royalty on any timber or other forest-produce, although the same is levied on such timber or produce while in transit, in the same manner as duty is levied.

## CHAPTER VIII.

### OF THE CONTROL OF TIMBER AND OTHER FOREST-PRODUCE IN TRANSIT.

**41.** The control of all rivers and their banks as regards the floating of timber as well as the control of all timber and other forest-produce in transit by land or water, is vested in the Local Government, and it may from time to time make rules to regulate the transit of all timber and other forest-produce.

Such rules may (among other matters)—

(a) prescribe the routes by which alone timber and other forest-produce may be imported, exported, or moved into, from or within, British India;

(b) prohibit the import and export or moving of such timber or other produce without a pass from an officer duly authorized to issue the same, or otherwise than in accordance with the conditions of such pass;

(c) provide for the issue, production, and return of such passes and for the payment of fees therefor;

(d) provide for the stoppage, reporting, examination, and marking of timber or other forest-produce in transit, in respect of which there is reason to believe that any money is payable to Government on account of the price thereof, or on account of any duty, fee, royalty, or charge due thereon, or to which it is desirable for the purposes of this Act to affix a mark;

(e) provide for the establishment and regulation of depôts to which such timber or other produce shall be taken by those in charge of it for examination or for the payment of such money, or in order that such marks may be affixed to it; and the conditions under which such timber or other produce shall be brought to, stored at, and removed from, such depôt;

(f) prohibit the closing up or obstructing of the channel or banks of any river used for the transit of timber or other forest-produce, and the throwing of grass, brushwood, branches, and leaves into any such river, or any act which may cause such river to be closed or obstructed;

(g) provide for the prevention and removal of any obstruction of the channel or banks of any such river; and for recovering the cost of such prevention or removal from the person whose acts or negligence necessitated the same;

(h) prohibit absolutely or subject to conditions, within specified local limits, the establishment of saw-pits, the converting, cutting, burning, concealing, or marking of timber, the altering or effacing of any marks on the same and the possession or carrying of marking-hammers or other implements used for marking timber;

(i) regulate the use of property-marks for timber, and the registration of such marks; prescribe the time for which such registration shall hold good; limit the number of such marks that may be registered by any one person, and provide for the levy of fees for such registration.

NOTE.—For Rules under this section see Note (h) at the end of the Act

**42.** The Local Government may by such rules prescribe as penalties for the infringement thereof imprisonment for a term which may extend to six months, or fine which may extend to five hundred rupees, or both.

Penalty for breach of rule made under Section 41

Double penalties may be inflicted in cases where the offence is committed after sunset and before sunrise, or after preparation for resistance to lawful authority, or if the offender has been previously convicted of a like offence.

**43.** The Government shall not be responsible for any loss or damage which may occur in respect of any timber or other forest-produce while at a depôt established under a rule made under section forty-one, or while detained elsewhere for the purposes of this Act; and no forest-officer shall be responsible for any such loss or damage unless he causes such loss or damage negligently, maliciously or fraudulently.

Government and forest-officers not liable for damage to forest-property at depôt.



**44.** In cases of any accident or emergency involving danger to any property at any such depôt, every person employed at such depôt, whether by the Government or by any private person, shall render assistance to any forest-officer or police-officer demanding his aid in averting such danger and securing such property from damage or loss.

## CHAPTER IX.

### OF THE COLLECTION OF DRIFT AND STRANDED TIMBER.

Certain kinds of timber to be deemed property of Government until title thereto proved, and may be collected accordingly

**45.** All timber found adrift, beached, stranded, or sunk ;

all wood or timber bearing marks which have not been registered under section forty-one, or on which the marks have been obliterated, altered, or defaced by fire or otherwise, and,

in such areas as the Local Government directs, all unmarked wood and timber,

shall be deemed to be the property of Government unless and until any person establishes his right and title thereto, as provided in this chapter.

Such timber may be collected by any forest-officer or other person entitled to collect the same by virtue of any rule made under section fifty-one, and may be brought to such depôts as the forest-officer may, from time to time, notify as depôts for the reception of drift-timber.

The Local Government may, by notification in the local official Gazette, exempt any class of timber from the provisions of this section, and withdraw such exemption.

NOTES — (a) Under Section 45 of Act VII of 1878, the Hon'ble the Lieutenant-Governor is pleased to direct that the following shall be the areas within which all unmarked wood and timber shall be deemed to be the property of Government, until, and unless, any person establishes his right and title thereto —

The Jhelum and its tributaries within British territory ;

The Chenab	ditto	ditto ;
The Ravi	ditto	ditto ;
The Beas	ditto	ditto ;
The Sutlej	ditto	ditto ;

including an area within a direct distance of five miles from either bank of the main stream of the said rivers, taking that stream at its cold season level — (Notification No. 222 F, dated 9th May 1879, Punjab Gazette of 15th idem)

(b). In continuation of the Punjab Government Gazette Notification No. 222F, dated 9th May 1879, and under the provisions of Section 45 of Act VII of 1878, the Hon'ble the Lieutenant Governor is pleased to direct that the river Indus and its tributaries within British territory, including an area within a direct distance of 5 miles from either bank of the main stream of these rivers, taken at its cold season level, shall be added to the areas within which all unmarked wood and timber is deemed to be the property of Government, until and unless any person establishes his right and title thereto. — ( Notification No 188 F, dated 9th April 1881, Punjab Gazette of 14th idem)

**46.** Public notice shall, from time to time, be given by the forest-officer of timber collected under section forty-five. Such notice shall contain a description of the timber, and shall require any person claiming the same to present to such officer, within a period not less than two months from the date of such notice, a written statement of such claim.

**47.** When any such statement is presented as aforesaid, the forest-officer may, after making such enquiry as he thinks fit, either reject the claim after recording his reasons for so doing, or deliver the timber to the claimant.

Procedure on claim preferred to such timber.

If such timber is claimed by more than one person, the forest-officer may either deliver the same to any of such persons whom he deems entitled thereto, or may refer the claimants to the Civil Courts, and retain the timber pending the receipt of an order from such Court for its disposal.

Any person whose claim has been rejected under this section may within two months from the date of such rejection institute a suit to recover possession of the timber claimed by him ; but no person shall recover any compensation or costs against the Government, or against any forest-officer on account of such rejection, or the detention or removal of any timber, or the delivery thereof to any other person under this section. No such timber shall be subject to process of any Civil, Criminal, or Revenue Court until it has been delivered, or a suit has been brought, as provided in the section.

On rejection of claim to such timber, claimant may institute suit

**48.** If no such statement is presented as aforesaid, or if the claimant omits to prefer his claim in the manner and within the period prescribed by the notice issued under section forty-six, or, on such claim having been so preferred by him and having been rejected, omits to institute a suit to recover possession of such timber within the further period limited by section forty-seven, the ownership of such timber shall vest in the Government, or when such timber has been delivered to another person under section forty-seven, in such other person, free from all encumbrances.

Disposal of unclaimed timber.

**49.** The Government shall not be responsible for any loss or damage which may occur in respect of any timber collected under section forty-five, and no forest-officer shall be responsible for any such loss or damage, unless he causes such loss or damage negligently, maliciously, or fraudulently.

Government and its officers not liable for damage to such timber.

**50.** No person shall be entitled to recover possession of any timber collected or delivered as aforesaid until he has paid to the forest-officer or other person entitled to receive it such sum on account thereof as may be due under any rule made in pursuance of section fifty-one.

Payments to be made by claimant before timber is delivered to him

**51.** The Local Government may from time to time make rules to regulate the following matters (namely):—

Power to make rules and prescribe penalties.

(a) the salving, collection, and disposal of all timber mentioned in section forty-five ;

(b) the use and registration of boats used in salving and collecting timber ;

(c) the amounts to be paid for salving, collecting, moving, storing, and disposing of such timber ;

(d) the use and registration of hammers and other instruments to be used for marking such timber

The Local Government may from time to time prescribe, as penalties for the infringement of any rules made under this section, imprisonment for a term which may extend to six months, or fine which may extend to five hundred rupees, or both.

NOTE —For Rules under this section see Note (4)

## CHAPTER X.

### PENALTIES AND PROCEDURE.

**52** When there is reason to believe that a forest-offence has been committed in respect of any forest-produce, such produce together with all tools, boats, carts, and cattle used in committing such offence, may be seized by any forest-officer or police-officer

Seizure of property liable to confiscation

Every officer seizing any property under this section shall place on such property a mark indicating that the same has been so seized, and shall, as soon as may be, make a report of such seizure to the Magistrate having jurisdiction to try the offence on account of which the seizure has been made.

Application for confiscation.

Provided that when the forest-produce with respect to which such offence is believed to have been committed is the property of Government, and the offender is unknown, it shall be sufficient if the officer makes, as soon as may be, a report of the circumstances to his official superior.

**53.** Upon the receipt of any such report the Magistrate shall, with all convenient dispatch, take such measures as may be necessary for the arrest and trial of the offender and disposal of the property according to law.

Procedure thereupon

**54.** All timber or forest-produce which is not the property of Government and in respect of which a forest-offence has been committed, and all tools, boats, carts, and cattle used in committing any forest-offence, shall be liable to confiscation.

Forest-produce, tools, &c, when liable to confiscation

Such confiscation may be in addition to any other punishment prescribed for such offence.

**55.** When the trial of any forest-offence is concluded, any forest-produce in respect of which such offence has been committed shall, if it is the property of Government or has been confiscated, be taken charge of by a forest-officer, and in any other case may be disposed of in such manner as the Court may direct

Disposal, on conclusion of trial for forest offence of produce in respect of which it was committed

**56.** When the offender is not known, or cannot be found, the Magistrate may, if he finds that an offence has been committed, order the property in respect of which the offence has been committed to be confiscated and taken charge of by the forest-officer, or to be made over to the person whom he deems to be entitled to the same:

Procedure when offender not known, or cannot be found

Provided that no such order shall be made until the expiration of one month from the date of seizing such property, or without hearing the person (if any) claiming any right thereto, and the evidence (if any) which he may produce, in support of his claim.

**57.** The Magistrate may notwithstanding anything hereinbefore contained, direct the sale of any property seized under section fifty-two and subject to speedy and natural decay, and may deal with the proceeds as he would have dealt with such property if it had not been sold.

**58.** The officer who made the seizure under section fifty-two or any of his official superiors, or any person claiming to be interested in the property so seized, may, within one month from the date of any order passed under section fifty-four, fifty-five or fifty-six, appeal therefrom to the Court to which orders made by such Magistrate are ordinarily appealable, and the order passed on such appeal shall be final.

**59.** When an order for the confiscation of any property has been passed under section fifty-four or fifty-six, as the case may be, and the period limited by section fifty-eight for an appeal from such order has elapsed and no such appeal has been preferred, or when, on such an appeal being preferred, the Appellate Court confirms such order in respect of the whole or a portion of such property, such property or such portion thereof, as the case may be, shall vest in the Government free from all incumbrances.

**60.** Nothing hereinbefore contained shall be deemed to prevent any officer empowered in this behalf by the Local Government from directing at any time the immediate release of any property seized under section fifty two.

**61.** Any forest-officer or police-officer who vexatiously and unnecessarily seizes any property on pretence of seizing property liable to confiscation under this Act, shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

[Penalty for counterfeiting or defacing marks on trees and timber and for altering boundary-marks]

**62.** Whoever, with intent to cause damage or injury to the public or to any person, or to cause wrongful gain as defined in the Indian Penal Code—

(a) knowingly counterfeits upon any timber or standing tree a mark used by forest-officers to indicate that such timber or tree is the property of the Government or of some person, or that it may lawfully be cut or removed by some person ; or

(b) alters, defaces, or obliterates any such mark placed on a tree or on timber by or under the authority of a forest-officer ; or

(c) alters, moves, destroys, or defaces any boundary-mark of any forest or waste-land to which the provisions of this Act are applied,

shall be punished with imprisonment for a term which may extend to two years, or with fine, or with both.

**63.** Any forest-officer or police-officer may, without orders from a Magistrate and without a warrant, arrest any person against whom a reasonable suspicion exists of his having been concerned in any forest-offence punishable with imprisonment for one month or upwards. Every officer making an arrest under this section shall without unnecessary delay take or send the person arrested before the Magistrate having jurisdiction in the case.

Nothing in this section shall be deemed to authorize such arrest for any act which is an offence under Chapter IV of this Act, unless such act has been prohibited under section twenty-nine, clause (c).

Power to prevent commission of offence.

64. Every forest-officer and police-officer shall prevent, and may interfere for the purpose of preventing, the commission of any forest-offence.

Power to try offences summarily.

65. The Magistrate of the District, and any Magistrate of the first class specially empowered in this behalf by the Local Government, may try summarily, under the Code of Criminal Procedure, any forest-offence punishable only with imprisonment for a term not exceeding six months, or fine not exceeding five hundred rupees, or both.

66. Nothing in this Act shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence against this Act or the rules made under it, or from being liable under such other law to any higher punishment or penalty than that provided by the rules made under this Act: Provided that no person shall be punished twice for the same offence.

67. The Local Government may from time to time, by notification in the local official Gazette, empower any forest-officer by name, or as holding an office, to accept from any person against whom a reasonable suspicion exists that he has committed any forest-offence other than an offence under section sixty-one or section sixty-two a sum of money by way of compensation for any damage which may have been committed, and to release any property which has been seized as liable to confiscation on payment of the value thereof as estimated by such officer.

On the payment of such sum of money, or such value, or both, as the case may be, to such officer, the accused person, if in custody, shall be discharged, the property seized shall be released, and no further proceedings shall be taken under this Act against such person or property; but nothing herein contained shall exempt such person from prosecution on the same facts under any other law for the time being in force.

NOTE.—See Note (m) at end of Act.

68. When in any proceedings taken under this Act, or in consequence of anything done under this Act, a question arises as to whether any forest-produce is the property of the Government, such produce shall be presumed to be the property of the Government until the contrary is proved.

Presumption that forest-produce belongs to Government.

## CHAPTER XI.

### CATTLE-TRESPASS.

69. Cattle trespassing in a reserved forest, or in any portion of a protected forest which has been lawfully closed to grazing, shall be deemed to be cattle doing damage to a public plantation within the meaning of the eleventh section of the Cattle-trespass Act, 1871, and may be seized and impounded as such by any forest-officer or police-officer.

Cattle-trespass Act, 1871, to apply.

**70.** The Local Government may, from time to time, by notification in the local official Gazette, direct that, in lieu of the fines fixed by the twelfth section of the Act last aforesaid, there shall be levied for each head of cattle impounded under section sixty-nine of this Act, such fines as it thinks fit, but not exceeding the following, that is to say :—

For each elephant	... ten rupees.
For each buffalo or camel	two "
For each horse, mare, gelding, pony, colt, filly, mule, bull, bullock, cow or heifer	... one rupee.
For each calf, ass, pig, ram, ewe, sheep, lamb, goat or kid	... eight annas.

## CHAPTER XII.

### OF FOREST-OFFICERS.

**71.** The Local Government may invest any forest-officer by name, or as holding any office, with the following powers, that is to say :—

(a) power to enter upon any land and to survey, demarcate, and make a map of the same ;

(b) the powers of a Civil Court to compel the attendance of witnesses and the production of documents ;

(c) power to issue a search-warrant under the Code of Criminal Procedure ;

(d) power to hold an enquiry into forest-offences, and, in the course of such enquiry, to receive and record evidence.

Any evidence recorded under clause (d) of this section shall be admissible in any subsequent trial before a Magistrate, provided that it has been taken in the presence of the accused person.

Forest-officers deemed public servants

**72.** All forest-officers shall be deemed to be public servants within the meaning of the Indian Penal Code.

Indemnity for acts done in good faith.

**73.** No suit shall lie against any public servant for anything done by him in good faith under this Act.

**74.** Except with the permission in writing of the Local Government, no forest-officer shall, as principal or agent, trade in timber or other forest-produce, or be or become interested in any lease of any forest or in any contract for working any forest, whether in British or Foreign territory.

## CHAPTER XIII.

### SUBSIDIARY RULES.

Additional powers to make rules.

**75.** The Local Government may from time to time make rules—

(a) to prescribe and limit the powers and duties of any forest-officer under this Act ;

(b) to regulate the rewards to be paid to officers and informers out of the proceeds of fines and confiscations under this Act ;

(c) for the preservation, reproduction, and disposal of trees and timber belonging to Government, but grown on lands belonging to or in the occupation of private persons ; and

(d) generally to carry out the provisions of this Act.

\* NOTE.—For Rules under this section see Notes (g) and (j) at the end of the Act.

**76.** Any person breaking any rule under this Act, for the breach of which no special penalty is provided, shall be punished with imprisonment for a term which may extend to one month, or fine which may extend to five hundred rupees, or both.

**77.** All rules made by the Local Government under this Act shall be published in the local official Gazette, and shall thereupon, so far as they are consistent with this Act, have the force of law: Provided that no rule made under section twenty-seven, thirty-one, or forty-one shall be so published without the previous sanction of the Governor-General in Council.

## CHAPTER XIV.

### MISCELLANEOUS.

**78.** Every person who exercises any right in a reserved or protected forest, or who is permitted to take any forest-produce from, or to cut and remove timber or to pasture cattle in, such forest, and

every person who is employed by any such person in such forest, and every person in any village contiguous to such forest who is employed by the Government, or who receives emoluments from the Government for services to be performed to the community,

shall be bound to furnish without unnecessary delay to the nearest forest-officer or police-officer any information he may possess respecting the commission of, or intention to commit, any forest-offence, and shall assist any forest-officer or police-officer demanding his aid—

- (a) in extinguishing any fire occurring in such forest ;
- (b) in preventing any fire which may occur in the vicinity of such forest from spreading to such forest ;
- (c) in preventing the commission in such forest of any forest-offence ; and
- (d) when there is reason to believe that any such offence has been committed in such forest, in discovering and arresting the offender.

**79.** If the Government and any person be jointly interested in any forest or waste-land, or in the whole or any part of the produce thereof, the Local Government may, from time to time, either—

- (a) undertake the management of such forest, waste-land, or produce, accounting to such person for his interest in the same ; or
- (b) issue such regulations for the management of the forest, waste-land, or produce by the person so jointly interested, as it deems necessary for the management thereof and the interests of all parties therein.

When the Local Government undertakes, under clause (a) of this section, the management of any forest, waste-land, or produce, it may, from time to time, by notification in the local official Gazette, declare that any of the provisions contained in Chapters II and IV of this Act shall apply to such forest, waste-land, or produce, and thereupon such provisions shall apply accordingly.

**80.** If any person be entitled to a share in the produce of any forest which is the property of Government or over which the Government has proprietary rights, or to any part of the forest-produce of which the Government is entitled, upon the condition of duly performing any service connected with such forest, such share shall be liable to confiscation in the event of the fact being established to the satisfaction of the Local Government that such service is no longer so performed: Provided that no such share shall be confiscated until the person entitled thereto, and the evidence (if any) which he may produce in proof of the due performance of such service, have been heard by an officer duly appointed in that behalf by the local Government.

**81.** All money payable to the Government under this Act, or under any rule made under this Act, or on account of the price of any forest-produce, or of expenses incurred in the execution of this Act in respect of such produce, may, if not paid when due, be recovered under the law for the time being in force as if it were an arrear of land-revenue.

NOTE.—As regards realization of forest income, see Note (k) at the end of the Act.

**82.** When any such money is payable for or in respect of any forest-produce, the amount thereof shall be deemed to be a first charge on such produce, and such produce may be taken possession of by a forest-officer until such amount has been paid.

If such amount is not paid when due, the forest-officer may sell such produce by public auction and the proceeds of the sale shall be applied first in discharging such amount. The surplus (if any), if not claimed within two months from the date of the sale by the person entitled thereto shall be forfeited to Her Majesty.

**83.** Whenever it appears to the Local Government that any land is required for any of the purposes of this Act, such land shall be deemed to be needed for a public purpose within the meaning of the Land Acquisition Act, 1870, section four.

#### SCHEDULE

(See section 1).

#### ENACTMENTS REPEALED

Number and year of Act or Regulation.	Title.	Extent of repeal.
Act VII of 1865 ...	An Act to give effect to Rules for the management and preservation of Government forests	So much as has not been repealed.
Act VII of 1869 ...	An Act to give validity to certain Rules relating to forests in British Burma.	The whole
Act XIII of 1873 ...	An Act to amend the law relating to timber floated down the rivers of British Burma.	So much as has not been repealed.
Regulation IX of 1874 ...	The Arakan Hill District Laws Regulation, 1874.	So far as it relates to Acts VII of 1865 and VII of 1869.



## NOTES.—(a). Forests declared to be reserved under Section 19 :—

District.	Punjab Government Notification.
Rawalpindi ... ..	No. 95F., dated 1st March 1879, <i>Punjab Gazette</i> of 6th idem. No. 431, dated 27th October 1886, <i>Punjab Gazette</i> of 28th idem, page 592. No. 257, dated 10th August 1887, <i>Punjab Gazette</i> of 11th idem, page 476.
Gujrat ... ..	No. 109F., dated 6th March 1879, <i>Punjab Gazette</i> of same date. No. 284, dated 3rd July 1882, <i>Punjab Gazette</i> of 6th idem, modified by No. 80, dated 17th February 1886, <i>Punjab Gazette</i> of 18th idem, page 52.
Hoshiarpur ... ..	No. 110F., dated 6th March 1879, <i>Punjab Gazette</i> of same date, and No. 113 F., of same date, modified by No. 444, dated 15th October 1884, <i>Punjab Gazette</i> of 16th idem, page 965.
Kangra ... ..	No. 111F., and 112 F., dated 6th March 1879, <i>Punjab Gazette</i> of same date, modified by No. 17, dated 23rd January 1885, <i>Punjab Gazette</i> of 29th idem, page 44.
Amritsar ... ..	No. 113F., dated 6th March 1879, <i>Punjab Gazette</i> of same date. No. 115, dated 6th March 1879, <i>Punjab Gazette</i> of same date.
Gurdaspur ... ..	No. 113F., dated 6th March 1879, <i>Punjab Gazette</i> of same date.
Mooltan ... ..	No. 114F., dated 6th March 1879, <i>Punjab Gazette</i> of same date. No. 289F., dated 22nd July 1880, <i>Punjab Gazette</i> of 29th idem. No. 353F., dated 30th August 1880, <i>Punjab Gazette</i> of 2nd Sept. No. 55F., dated 7th February 1881, <i>Punjab Gazette</i> of 10th idem. No. 184F., dated 7th April 1881, <i>Punjab Gazette</i> of same date. No. 274F., dated 6th June 1881, <i>Punjab Gazette</i> of 9th June. No. 296, dated 6th June 1883, <i>Punjab Gazette</i> of 7th idem. No. 328, dated 26th June 1888, <i>Punjab Gazette</i> of 28th idem.
Gujranwala ... ..	No. 523, dated 14th Novr. 1888, <i>Punjab Gazette</i> of 15th idem, p. 729, No. 300 F., dated 24th July 1880, <i>Punjab Gazette</i> of 29th idem. No. 115, dated 6th March 1879, <i>Punjab Gazette</i> of same date. No. 1193 S., dated 3rd September 1885, <i>Punjab Gazette</i> of same date, page 668. No. 244, dated 9th June 1886, <i>Punjab Gazette</i> of 10th idem, page 326.
Jhelum ... ..	No. 359 F., dated 25th August 1881, <i>Punjab Gazette</i> of 1st Sept. No. 361, dated 21st August 1882, <i>Punjab Gazette</i> of 24th idem. Nos. 349, 350, dated 15th August 1883, <i>Punjab Gazette</i> of 16th idem, pp. 472, 473, modified by No. 432, dated 24th June 1885, <i>Punjab Gazette</i> of 25th idem, page 455.
Montgomery ... ..	No. 912 C., dated 25th September 1879, <i>Punjab Gazette</i> of 27th Nov. No. 402F., dated 22nd September 1881, <i>Punjab Gazette</i> of 29th idem.
Lahore ... ..	No. 115, dated 6th March, 1879, <i>Punjab Gazette</i> of same date, modified by No. 230, dated 13th July 1887, <i>Punjab Gazette</i> of 14th idem, page 362.
Jullundur ... ..	No. 115, dated 6th March 1879, <i>Punjab Gazette</i> of same date, modified by No. 201, dated 6th May 1886, <i>Punjab Gazette</i> of same date, page 271.
Ludhiana ... ..	No. 115, dated 6th March 1879, <i>Punjab Gazette</i> of same date.
Umballa ... ..	No. 115, dated 6th March 1879, <i>Punjab Gazette</i> of same date. No. 190, dated 28th April 1886, <i>Punjab Gazette</i> of 29th idem, page 248.
Simla ... ..	No. 175, dated 15th April 1885, <i>Punjab Gazette</i> of 16th idem, page 274.
Hissar ... ..	No. 393, dated 16th November 1887, <i>Punjab Gazette</i> of 17th idem page 607.

## (b). Protected Forests under Section 28 :—

District.	Punjab Government Notification.
Rawalpindi ... ..	No. 95 F., dated 1st March 1879, <i>Punjab Gazette</i> of 6th idem. No. 63, dated 17th February 1887, <i>Punjab Gazette</i> of same date page 52.
Gujranwala ... ..	No. 345 F., dated 26th August 1880, <i>Punjab Gazette</i> of 2nd Sept. No. 1192 S., dated 3rd September 1885, <i>Punjab Gazette</i> of same date, page 667. No. 260, dated 10th August 1887, <i>Punjab Gazette</i> of 11th idem page 477.

(c) In supersession of *Punjab Government Gazette Notification No 485 dated 4th November 1885*, the Hon'ble the Lieutenant Governor directs that the Executive Forest Charges of the Punjab be arranged hereafter as follows, the arrangement being adjusted as far as possible so as to correspond with the Executive Revenue arrangement of the Province —

Executive Forest Charges	COMPRISING		Revenue Commissionership to which attached.
	Revenue Districts	Rivers	
1 Bashahr	The leased forests of Bashahr and Tahsil Kotgrih and Kot Khai of the Simla District	The Sutlej river from Rampur to Naila	Delhi
2 Amballa	Jullundur Lathianna and Umballa Subathu and Dagshai in the Simla District	The Sutlej from Naila to boundary of the Montgomery District	Delhi and Jullundur
3 Kulu	Kulu Sub division of the Kangra District	Beas from sources to the east boundary of the Mandi State	Jullundur
4 Kangra	Kangra (except the Kulu Sub division) and Hoshiarpur	Beas from the west boundary of the Mandi State to junction with Sutlej	Ditto
5 Chambha	Guraspur District and leased forests of Chambha	Ravi from sources to border of Montgomery District so far as within British territory	Lahore
6 Lahore	Lahore and Amritsar		Ditto
7 Montgomery	Montgomery	Sutlej and Ravi as far as included in the district	Ditto
8 Mooltan	Mooltan Muzaffargarh and Dera Ghazi Khan	Sutlej Ravi Chenab and Indus, so far as they are included within the Mooltan Muzaffargarh and Dera Ghazi Khan Districts and also the Chenab, in the Jhang District, as far as the Trimmu Depot	Lahore and Derajat
9 Chenab	Jhang Gujranwala, Gujrat and Sialkot Tahsils Bhira and Shahpur of the Shahpur District	Chenab down to the Jhang Depot in the Jhang District	Lahore and Rawalpindi
10 Jhelum	Jhelum and Tahsil Khushab of the Shahpur District	Jhelum from Saligram down to the Trimmu Depot and the portion of the Chenab between the Jhang and Trimmu Depots	Rawalpindi
11 Rawalpindi	Rawalpindi and Peshawar	Indus so far as it bounds the Rawalpindi District and its tributaries in the district	Rawalpindi and Peshawar
12 Hazara	Hazara	Indus within Hazara District, Jhelum where it bounds the Hazara and Rawalpindi Districts so far as Saligram and the Kunhar and Siran and Doh Rivers also the Harroth River so far as it is in Hazara	Peshawar

(Notification No 412, dated 4th October 1886, *Punjab Gazette of 7th idem, Part I, p 566*, as amended by Nos 167, 172 dated 27th and 28th March 1888, *Punjab Gazette of 29th idem, Part I, p 356*)

(d) The Hon'ble the Lieutenant Governor is pleased to prescribe the following rules under Clause I, Section 25 of Act VII of 1878 the Indian Forest Act, regarding hunting and shooting in Reserved Forests

I—Hunting or shooting with elephants and with large parties of coolies or beaters is prohibited

II—Hunting or shooting between the 15th March and 15th September (both days inclusive) in each year is prohibited

III—The Conservator of Forests may declare and publicly notify any Reserved Forest or portion of such forest to be altogether closed for such periods as may be necessary, when it is desirable in his judgment to close such forest or portion of a forest

IV.—The poisoning of water and the setting of snares and traps is prohibited

V—Subject to the above restrictions, hunting or shooting is permitted, but nothing in this rule shall be taken to exempt any person from liability in respect of any offence by fire, injury to the forest or its produce, or other offence punishable by Section 25, Act VII of 1878

VI.—When not restricted by any existing right or lease of such right, fishing, otherwise than by nets, in any stream or other water is permitted in any forest not being a forest closed under the provisions of Rule III.

(Punjab Government Notification No. 203, dated 2nd May 1879, Punjab Gazette of 8th idem).

(e). In exercise of the power conferred on him by Section 29, clauses (a) and (c), of the Indian Forest Act, VII of 1878, the Hon'ble the Lieutenant-Governor is pleased to direct that in the Protected Forests of Tahsils Murree and Kahuta, in the Rawalpindi District, detailed in Punjab Government Gazette Notification No. 63, dated the 17th of February 1887—

(1) the following trees shall be reserved :

Deodar,	Tun,	Rhin,	Shamshad,
Biar,	Kanjor,	Kain,	Imli,
Paludar,	Drawa,	Phulai,	Jhand,
Chir,	Sum,	Khail,	Siris, and
Akhrot,	Bariangi,	Kao,	Bamboos.
Tali,	Kalakat (wild cherry),		

(2) The quarrying of stone, the burning of lime and charcoal, the collection or subjection to any manufacturing process or removal of any forest produce, and the breaking up or clearing any land for cultivation, for building, for herding cattle, or for any other purpose, shall be prohibited

This Notification shall have effect from the 1st day of April 1887

(Notification No. 64, dated 17th February 1887, Punjab Gazette of same date, Part I, p. 54).

(f). In the exercise of the power conferred on him by Section 31 of the Indian Forest Act, VII of 1878, the Hon'ble the Lieutenant-Governor, with the previous sanction of the Governor-General in Council, makes the following rules for the management of the Protected Forests of Tahsils Murree and Kahuta, in the Rawalpindi District, detailed in Punjab Government Gazette Notification No. 63, dated 17th February 1887:—

#### RULES UNDER SECTION 31 FOR THE MANAGEMENT OF DEMARCATED PROTECTED FORESTS IN TAHSILS MURREE AND KAHUTA.

##### A.—Cutting and Removal of Trees and Timber ; Collection and Removal of Forest Produce

The following trees only shall be lopped for fodder of cattle owned by right-holders :—

- Rhin (*Quercus incana*)
- Barungi (*Quercus dilatata*)
- Baren (*Quercus annulata*)
- Dhaman (*Grewia oppositifolia*).

Such loppings shall in no case be taken higher than two-thirds of the total height of the tree lopped. But no tree shall be lopped which is less than 16 feet high.

2. Grass may be cut, stacked or removed at any time during the year for the personal use of the right-holders

3. Fallen dry wood and brushwood may be cut and removed by right-holders at any time but no "reserved" trees, however young, may be cut.

4. Wood of any kind, except deodar and *pinus excelsa* (biar), may be taken by right-holders, as required for agricultural implements free of charge, and no license need be applied for on this account.

5. Wood of any kind, except deodar and *pinus excelsa* (biar), may be taken by all persons free of charge and without license for graves and for the cremation of dead bodies.

##### B.—Granting of Licenses to adjacent inhabitants for their own use, and the Production and Return of Licenses.

6. No trees shall be cut, except on a license granted by the Forest Ranger, Deputy Conservator of Forests, or Deputy Commissioner. And a license to cut trees shall not authorize the cutting of any trees not already marked for this purpose.

7. A sufficient number of trees for the probable requirements of right-holders shall be marked by the Forest Rangers for felling every year, in the Kahuta Tahsil in December and January, and in the Murree Tahsil in March, April and May.

8. Application for licenses to cut timber shall ordinarily be made to the Forest Ranger during the same months ; but, in cases of urgency, may be made at any other time.

9. In all cases in which the Forest Ranger refuses to grant a license to the applicant, a further application may be made to the Deputy Conservator of Forests or to the Deputy Commissioner.

10. In granting licenses to right-holders, the Deputy Commissioner and Forest Officers shall have regard to the following considerations :—

(i) Licenses shall be limited to the actual requirements of the right-holder for his own dwelling house and cattle sheds, the house and shed being reckoned according to those now ordinarily in use among the right-holders. The license shall not ordinarily give leave to fell more than three chir trees (or, where chir trees are not available, piar trees) with a proportionate quantity of small timber ; nor be granted oftener than once in five years.

(ii) License shall ordinarily be granted to a right-holder in the forest in which he has rights.

(iii) Applications for license to cut a larger number of trees, or for the grant of trees at shorter intervals than five years, or in a forest other than that in which the applicant has rights, shall be referred to the Deputy Conservator of Forests, who will pass such orders on each case as will suffice to meet the reasonable requirements and conveniences of the applicant as defined in the first sentence of clause 1 of this rule.

Period at which trees granted must be cut and removed. 11. Trees granted by the Forest Ranger during his annual tour in March, April or May must be cut and removed—

In Murree before the end of July ;  
In Kahuta before the end of April ) next after the granting of the trees.

Trees granted on special application at other times shall be cut and removed within three months of the grant if the trees have been already marked, or otherwise within three months of the marking of the trees.

In case the trees granted have not been cut and removed within the period fixed by the license as above, the license shall lapse, unless renewed by the Forest Ranger.

12. All licenses granting permission to applicants to cut trees must be returned to the village lambardar within one month of the expiry of the period within which they were ordered to be cut and removed ; and the lambardar shall deliver them to the Ranger on demand.

Persons holding unexpired licenses shall exhibit them on demand to any Forest Officer.

*C.—Granting of licenses to fell and remove Timber and Forest Produce for Trades.*

13. The granting of licenses to fell and remove trees, timber or other forest produce for trade, the production and return of such licenses, the payments to be made in respect thereof the places where such payments shall be made, and the examination of produce covered by such licenses before it leaves the forest, shall be at the discretion of the Deputy Conservator of Forests, acting under the control of the Deputy Commissioner. Such licenses shall not be so granted as to interfere with the due supply of the right-holders.

*D.—Payments for Produce cut and removed for Personal Use.*

14. For every license to cut trees granted to a right-holder under Rule 10 there shall be payable, before it is made over to the applicant, a fee of one rupee. A similar fee shall be payable on renewal under Rule 11.

*G.—Clearings for Cultivation or Other Purposes.*

15. Right-holders in any demarcated protected forests shall only be allowed to break up and cultivate forest land within such forest after the Commissioner of the Division shall have notified that permission to break up land within such forests may be granted, and the clearance of forest land for such purposes shall be permitted only subject to the following rules.

16. Any person owning land in a village adjacent to a protected forest in which he has rights may apply to the Deputy Conservator of Forests for permission to cultivate land in that forest. The application shall be accompanied by a copy of the applicant's parcha of ownership, and shall contain the following particulars :—

(1) The name, parentage and residence of petitioner.

(2) The land owned by the petitioner.

(3) The revenue paid by him.

(4) The extent of the uncultivated waste of the village or villages in which he is a sharer, and in respect of which he holds rights in the forest.

(5) His reasons for desiring to break up land within the forest in question.

(6) The date and amount of any prior grant to him of the same nature in the same or other demarcated protected forest.

17. The Deputy Conservator of Forests may at once reject the application, or may cause the land to be demarcated and measured by the village patwari, and after such enquiry as may be necessary, may authorize the cultivation.

18. An appeal from an order of the Deputy Conservator of Forests refusing permission to clear land for cultivation shall lie to the Deputy Commissioner, whose order shall be final.

#### I.—Pasturing of Cattle.

19. No camels, sheep or goats shall be pastured in protected forests; other animals *bond fide* the property of right-holders, may be pastured in the forests over which their owners have rights.

#### J.—Hunting and Shooting.

20. The shooting of birds is prohibited from 16th March to 15th September (Chetar, to Bhadon, inclusive).

No call-birds, nets or snares shall be used.

#### L.—Exercise of Rights.

21. There are no restrictions on passage and on access to water in the protected forest.

(Notification No. 65, dated 17th February 1887, *Punjab Gazette* of same date, page 55).

(g). In accordance with the provisions of Section 77 of the Indian Forest Act, 1878, and in supersession of Punjab Government Notification No. 432, dated 27th October 1886, it is hereby notified that the annexed Rule has been framed by the Local Government under Section 14 (c) of the said Act and is applicable to the Reserved Forests of Tahsils Murree and Kahuta notified in *Punjab Government Gazette* Notifications No. 431, dated 27th October 1886, and No. 257, dated 10th August 1887.

Notification No. 432, of 27th October 1886, is hereby cancelled :—

#### RULE.

“Not more than three-quarters of the whole area of any of the Reserved Forests notified in Punjab Government Notification No. 431, dated 27th October 1886, shall be closed to grazing at any one time.”

(No. 257, dated 9th May 1888, *Punjab Gazette* of 10th idem, Part I, page 409).

(h).—In exercise of the powers conferred on him by Section 41 of Act VII of 1878, the Hon'ble the Lieutenant-Governor is pleased to make, and, with the sanction of the Governor-General in Council, hereby to publish the following Rules :—

#### *Punjab River Rules.*

Rule I.—All words used in these Rules and defined in Act VII of 1878 (The Indian Forest Act), shall be deemed to have the meanings respectively attributed to them by the said Act.

Collection of timber placed in the river from the forest. Rule II.—No person having launched his timber, or set it afloat on any river, shall collect the same, except—

(a) with the permission in writing of the Forest Officer in charge of the Forest Division.

(b) at the places which such officer may publicly notify as places at which such collection shall ordinarily be made.

Rule III.—No person shall raft, or otherwise convey, any timber which has been collected on any river, without first obtaining a pass from the Forest Officer in charge of the Forest Division in which such river is situate, or from such subordinate Forest Officer as the Officer in charge of the Division may authorize in that behalf.

Pass to be obtained for rafting timber after collection.

What the pass contains.

Such pass shall show the number of logs or pieces, the kind of timber, the marks indicative of the owner's property therein, the place of its destination, and the time for which it shall remain in force. It may specify that the timber may be stopped for examination at certain places to be named in the pass, and the Forest Officer may require the measurements of the timber (when such is practicable) and its estimated value to be entered.

No pass shall be issued for any unmarked timber or for such timber as bears a mark not registered as hereinafter provided.

Provided, that when any person having timber in transit on a river, at the date of the publication of these rules, applies for a pass for such timber within six months from such date, such pass may be granted, though the marks on such timber have not been registered.

Any Forest Officer may require any person rafting or conveying timber, as aforesaid, to produce the pass for the same at any time. No person shall be entitled to raft or convey timber by virtue of a pass which he does not himself hold, but which is, or is stated to be, in the hands of some other person.

In the event of the pass not being produced, the Forest Officer may detain the timber.

**Rule IV.**—No person is permitted to deposit any timber, for which a pass has been applied for, but not yet issued, so close to the water's edge as to endanger its being carried away by a rise in the river before the pass is issued.

**Rule V.**—For the issue of the pass a fee not exceeding one anna for each log or piece of timber may be levied on such rivers and at such places as the Conservator of Forests may from time to time direct.

**Rule VI.**—No person shall, without the permission in writing of the Forest Officer in charge of the Division, cut up, move, conceal, mark or efface or alter any marks on any timber while in transit or adrift on any river, or stranded on any bank or island of the same.

Any such permission, if granted, shall specify the place at which only it is to take effect and may contain such other conditions regarding the previous inspection of the timber and otherwise as may be necessary.

**Rule VII.**—All persons wishing to float or otherwise convey timber by any river shall register, at the Forest Office of the Division to which the control of the river pertains, the mark or marks which indicate their proprietary right in such timber. A registration fee of five rupees shall be payable for every separate mark so registered; and if the number of marks exceed three, the said fee shall be ten rupees for each mark.

In case of persons who have already made use of certain marks on timber in the river.

**Rule VIII.**—In the case of persons having at the date of the publication of these rules, timber in transit on any river, a period of six months from such date shall be allowed within which the timber marks existing at such date on such timber in transit may be registered.

Subject only to the provisions of Rule X, the Forest Officer shall during such period be bound to register all such marks as owners of timber can show to his satisfaction to have been already made use of and put on their timber previously to the publication of these rules; but no such owner shall be entitled to register any new or additional marks without the special permission of the Forest Officer.

**Rule IX.**—In the case of persons not having, at the date of the publication of these rules, timber or other forest produce in transit on any river marked with several different marks, the registration of one mark only shall be permitted, unless permission be given for any special reason to register more than one.

**Rule X.**—No person shall be allowed to register a mark already registered in favor of another person, nor any mark used by Government; and the Forest Officer may refuse registration of any mark which in his judgment so closely resembles a mark used by Government, or registered in favor of any person, as to be easily producible by altering such marks.

**Rule XI.**—Every registration under these rules shall hold good for three years, following the 1st of January next, after the date of registration.

A certificate showing the marks registered, the date of registration, the period for which it holds good, and acknowledging the payment of the fees, shall be given to every person registering his mark or marks.

**Rule XII.**—Any person infringing any provision of these rules shall be punished with imprisonment of either description, which may extend to six months, or with fine which may extend to five hundred rupees or with both.

(Punjab Government Notification No. 340 F., dated 19th August 1879, Punjab Gazette of 21st idem).

(i).—In exercise of the powers conferred on him by Section 51 of Act VII of 1878, the Hon'ble the Lieutenant-Governor is pleased to make and hereby to publish the following Rules :—

**Rule I.**—Whenever on any river, owing to flood or otherwise, timber has passed the place or all the places where it would ordinarily be caught and brought under control, or has after being brought under control, broken loose, and is consequently adrift or stranded below, the Forest Officer in charge of the Forest Division in which such river is situate may, instead of collecting such timber himself, under Section 45 of Act VII of 1878, grant permission in writing to the owner or owners to collect such timber

**Rule II.**—The permission shall specify the kind of timber, the marks it should bear, the destination or manner of its disposal when collected, and the time for which such permission shall hold good

**Rule III.**—No person shall without such permission cut up, remove, conceal, burn, mark or efface, or alter any mark or marks on, or sell or otherwise dispose of any such timber.

\* **Rule IV.**—The Forest Officer in charge of the Division may authorize zaildars, lambar-dars, or other respectable persons to save timber which is adrift at any point on the river below the last catching place, and may cancel such authority

For every log salvaged and taken to any drift timber depôt notified by the Forest Officer under Section 45 of the Act, the following salvage rates shall be payable, either to the authorized salvager or to the Forest Officer, as the case may be

For every log of deodar of 8 feet in girth and over—	1 rupee
Ditto	5 ditto .. 8 annas
Ditto under	5 ditto .. 3 annas
Sleepers and scantlings	... .. 3 annas each.

For logs and scantlings of other woods, half the above rates.

For salvage of scraps or firewood, one-fourth of the pieces collected in kind

The Forest Officer in charge may fix any higher rate, not exceeding twice the above rates, for salving on any portion of the river where such salving is unusually difficult or dangerous.

Nothing in this rule shall be held to prevent the Forest Officer contracting with such salvagers to raft the timber at certain places at rates agreed on by the parties, and no salvage rate shall be claimable in addition to any rate paid under such contract

**Rule V.**—The collection or salving of timber adrift or stranded below all the catching places by unauthorized persons is prohibited.

**Rule VI.**—Whoever infringes any provision of the above rules shall be punished for every such offence with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

(Punjab Government Notification No. 341 F, dated 19th August 1879, Punjab Gazette of 21st idem)

(j).—The Lieutenant Governor is pleased, under Section 75 of Act VII of 1878 (The Indian Forest Act), to prescribe and limit the duties of Forest Officers, and to provide for the payment of rewards to certain Revenue, Police, and Forest Officers, by the following rules :—

1. The Conservator of Forests, all Deputy Conservators, Assistant Conservators, Sub-Assistant Conservators, Forest Rangers, Foresters, and Forest Guards are appointed to do all acts and exercise all powers that are prescribed by the Act, or by Rules made under it, to be done by a Forest Officer or by any Forest Officer.

\* In exercise of the powers conferred upon him by Section 51 of Act VII of 1878, the Hon'ble the Lieutenant Governor is pleased to declare that Rule IV published under Notification No 341 F, of 19th August 1879, is hereby cancelled, but only so far as regards the river Jhelum. On the said river, in lieu thereof, the following rule shall henceforth be in force :—

**RULE.**—The Forest Officer in charge of the Jhelum Division may authorise zaildars lambar-dars, or other respectable persons to save timber which is adrift at any point on the river below the last catching place, and may cancel such authority.

The amounts payable for the salvage of such timber delivered at any drift timber depôt which may be notified by the Forest Officer under Section 45 of the Act, shall be the same as the amounts payable according to the contract, if any, for salvage of Government timber, in force at the time of the delivery of the salvaged timber at such depot, or, in the absence of any such contract, and in any case not provided for by such contract, shall be, between Jhelum and Khushab, at the rate of five rupees eight annas, and between Baghan and Jhelum, at the rate of three rupees six annas, per 100 cubic feet of contents.—(Punjab Government Notification No 318, dated 27th July 1882, Punjab Gazette of 3rd August 1882).

2. The Forest Officers mentioned in the first column of the following Schedule shall exercise the powers under the sections of the Act mentioned in the second column of the same opposite each class of Officers respectively ;—

Class of Officers empowered.	Section of the Act under which powers are given.	Brief description of nature of powers conferred.
I.—All Deputy Conservators, Assistant Conservators and Sub-Assistant Conservators, when in charge of Forest Divisions.	20	To publish translation of notifications of reserved forests.
	25	To notify seasons during which the kindling, &c., of fire is not prohibited.
	45	To notify depot for drift timber, &c.
	46	To issue notice to claimants of drift timber, &c.
	47	To decide claims to drift timber, &c.
	50	To receive payments on account of drift timber, &c.
	60	To direct release of property seized
	82	To take possession of, and sell forest produce for Government dues
II.—All Deputy Conservators, Assistant Conservators, and Sub-Assistant Conservators ; Forest Rangers, and Foresters when pecuniarily authorized in that behalf by the Conservator of Forests.	25	To permit acts otherwise prohibited in reserved forests
	33	To permit acts otherwise prohibited in protected forests.

3. Conservators of Forests are empowered to exercise all or any of the powers conferred in the foregoing Schedule

4. Conservators of Forests are empowered, under Section 24 of the Act, with the previous sanction of the Commissioner of the Division, to stop ways and water-courses in reserved forests, subject to the provisions of that section.

5. All Revenue Officers below the rank of Tahsildar, and all Police Officers up to and including Inspectors, all Forest Officers below the rank of Sub-Assistant Conservators, and Forest Office Clerks and Messengers, as well as persons who are not public servants, are eligible for rewards under these rules

6. On conviction of an offender, or on directing the confiscation of property under Section 56, the Magistrate by whom the case has been decided is authorized to grant such reward, and in such proportions as he may think fit, to any person or persons who have contributed to the seizure of the property confiscated, or the conviction of the offender, provided that the total amount of the reward shall not exceed the estimated value of the property confiscated *plus* the amount of any fine imposed.

7. If in any case the fine and the proceeds of the property confiscated cannot be immediately realized, the Magistrate deciding the case shall at once pay the reward (provided that it does not exceed Rs. 100) If in any case the Magistrate considers that more than Rs. 100 should be distributed as rewards, he shall distribute Rs. 100 at once, and shall submit his recommendation for a larger reward, through the Conservator of Forests, for the orders of the Local Government, giving his reasons for the same.

8. In case the Magistrate has not at his disposal a fund out of which the reward can be paid, or in the case of an order of confiscation where by law the Forest Officer takes charge of the property, the Forest Officer of the Division shall on requisition furnish the Magistrate with the necessary funds.

9. In any case, the rewards shall be paid within the limit and under the sanction provided in Rule 6, even though the fine may not have been realized. In cases in which the Forest Officer has furnished the funds under the rule, the fine on recovery shall be paid over to him.

10. If after payment of the reward the conviction is reversed in appeal, the amount paid away in reward shall not be recovered from the persons to whom it has been paid, unless it shall appear that they have acted fraudulently in the case.

11. In cases where, under Section 67 of the Indian Forest Act, a Forest Officer has accepted a sum of money as compensation for any damage which may have been committed, the Conservator of Forests may authorize the payment of a portion of the amount





Statement showing the demand, collections, and balances of Forest Revenue required to be realized by the Deputy Commissioner in the District of \_\_\_\_\_ for the month of \_\_\_\_\_

DEMAND.			COLLECTIONS			BALANCES			Remarks explanatory of balances.
For current year.	Balance of previous year	Total	In previous months of current year	In present month	Total	Of previous year.	Of current year	Total	
_____	_____	_____	_____	_____	_____	_____	_____	_____	_____

DEPUTY COMMISSIONER'S OFFICE, }

The

18

}

Deputy Commissioner.

(Financial Commissioner's Book Circular No. XV of 1879).

See also Financial Commissioner's Circular No. 31 of 1883.

(1). WITH the sanction of the Local Government the Financial Commissioner issues the following instructions with the object of defining the responsibility of Collectors of districts in which Forest Officers are employed in respect of the duties discharged by these Officers. But nothing in this Circular applies to the working of the Punjab River Rules, to the collection of drift and stranded timber under Chapter IX of the Indian Forest Act, to forests in Native States, nor to the Changa Manga Reserve. Neither does it apply to limited areas in one district managed by a Forest Officer whose main duties lie in another district

2 When the Collector considers it desirable that Magisterial powers for the trial of forest offences should be conferred on a Forest Officer, the Local Government will be prepared to consider such a recommendation, but each case of this kind will be separately treated with reference to local requirements and the personal qualifications of the Forest Officer concerned.

3 (a) In respect of the matters mentioned in clause (b) of this paragraph the District Forest Officer is under the control of the Collector in his management of—

- (i). Reserved forest
- (ii). Protected forests
- (iii). All unclassified forest and waste land owned by the State, or in which the State has forest rights

In a sub-division of a district, as for example in the Kulu Sub-Division of the Kangra District, the control of the Collector may be exercised through the Assistant Collector in charge of the sub-division

(b). The control of the Collector will be exercised in respect of the taking up of new forests, the recovery of monies due to Government, the prosecution of forest offences, so much of the forest administration as affects the use of the forests and waste lands by the adjacent population, and the appointment, posting and transfer of establishment, so far as they affect these questions

Assistance to be rendered as heretofore by the Collector's establishment.

4 The Collector will see that Tahsildars and the subordinate revenue agency of all grades not only render the same assistance as heretofore in the management of Government waste lands, and especially in the assessment and collection of Government dues, but also that these officials render assistance in the management of all forests. All distinctions and practices which are likely to encourage the impression that forest work lies outside the ordinary duties of land revenue officials should be gradually abolished. The Collector will also authorize the District Forest Officer to address orders to these officials direct in matters in which it may be convenient that he should, in ordinary cases, act without the intervention of the Collector

5. The District Forest Officer will keep a diary, in which will be briefly noted from day to day—

- (a) all occurrences of importance relating to duties discharged by him ;
- (b) the substance of any reports or representations (verbal or written) addressed by him to the Collector, and all orders received from that officer.

Should a Forest Officer be District Forest Officer of more than one district he will write a separate diary for each district.

This diary, written on half-margin, will be sent weekly to the Collector, and will be accompanied by a brief *precis* of any correspondence with the Conservator affecting the matters in respect of which the control of the Collector is exercised. The Collector will retain the *precis* but will forward the diary without delay to the Conservator of Forests, adding any remarks he may wish to make.

The Conservator of Forests will return the diary direct to the District Forest Officer who will lay before the Collector any remarks that the Conservator may have made thereon.

**Forests and waste lands to be administered according to working plans and sanctioned plans of operations**

6 All the lands mentioned in paragraph 3 (a) shall be administered in accordance with working plans sanctioned by Government, and with temporary plans of operations as provided in Chapter II, Part I, of the Forest Department Code, and in the following paragraphs.

7 It has not yet been possible to provide working plans for all these lands. But when the Conservator of Forests is in a position to provide a working plan he will, in consultation with the Commissioner of the Division, issue orders for its preparation. All working plans require the countersignature of the Collector, Commissioner and Financial Commissioner, whose duty it is to see that a proposed plan is framed with due consideration to local requirements.

When the working plans are so countersigned, they will, if they relate to (i) reserved forests or to (ii) protected forests, be submitted by the Conservator to the Inspector-General of Forests for scrutiny and approval of technical points. The Inspector-General will forward them to the Local Government with his opinion and remarks, and the Local Government will pass orders upon them, furnishing a copy of the same to the Government of India for confirmation or record. But if they relate to (iii) unreserved forests and waste lands owned by the State, or in which the State has forest rights, they will be sent by the Conservator to Government through the Financial Commissioner.

Working plans, when sanctioned by Government, cannot be altered except under the procedure and sanction above prescribed.

**Annual plans of operations**

8 In addition to such details as may from time to time be prescribed by the Conservator of Forests, the annual plans of operations shall state—

- (a) The grazing management is,—
  - (i) Absolute closings
  - (ii) Closings for part of the year or against certain animals only
  - (iii) Temporary closings for improvement of fodder
  - (iv) Grazing permits and leases
- (b) Temporary cultivation subsidiary to forest management
- (c) Cuttings and sale of timber, fuel and other forest produce
- (d) Protection from fire and from trespass

It is not however, intended that arrangements previously approved and found to work satisfactorily should be re-stated at length each year. It will be sufficient under such circumstances to state briefly that previous arrangements will be continued. The annual proposals for the regulation and management of grazing will be in accordance with the system prescribed by the orders of the Financial Commissioner, and in framing proposals under this paragraph for the closing of areas which have not been declared reserved in protected forests under the Indian Forest Act, 1878, due consideration should be shown for the grazing convenience of adjacent villages.

9 Annual plans of operations will be framed by the financial year. There will be a separate plan for each district. It will be prepared in duplicate by the District Forest Officer, who, in respect of the matters mentioned in paragraph 3 (b), will, in preparing it be guided by the instructions given by the Collector. The Collector will submit the plan to the Conservator for sanction.

The Conservator in framing his orders on the plan will consult the Commissioner in respect of the matters mentioned in paragraph 3 (b). If in regard to any of these matters he disagrees with the Commissioner he will refer the point at issue to the Financial Commissioner for his orders, or for the orders of Government, as the case may require. Final orders should be issued before the 15th March in each year.

10. If, during the currency of any annual plan of operation so sanctioned, it becomes necessary to revise it in respect of any matter mentioned in paragraph 3 (b), the procedure laid down in paragraph 9 will be followed.

11. The District Forest Officer will be consulted by the Collector with reference to all proposed alienations of forests or waste lands by grant, lease, or sale, and he will give such assistance in cases of this nature as the Collector may require, specially in the selection of the sites and determination of the boundaries of proposed grants. No land, whether protected

or unclassified forest or waste the revenue of which is credited to the Forest Department, will be granted leased, or sold until the consent of the Conservator of Forests to its alienation has been obtained

Office and routine

12 (a) The offices of District Forest Officers will, so far as possible, be located in or in the immediate vicinity of the Collector's office

(b) Formal official correspondence between the Collector and the District Forest Officer concerning matters dealt with by these instructions should be avoided as far as possible, written communications, when necessary, being carried on by the transmission on original files and cases under the same rules as apply to the transaction of business between a Collector and his Revenue Assistants

(c) The Collector may direct the District Forest Officer to file in the District Record Office such of the Forest records as relate to forest settlements or revenue leases, or other matters affecting the use of the forests and waste lands by the population adjacent thereto

13 Proposals of importance for the formation of new forests, or which affect the use of the forests and waste lands by the adjacent population, will be addressed by the Conservator to the Financial Commissioner for submission to Government

14 Nothing in this Circular is to be understood as affecting the responsibility of the Revenue Officers in respect of the special assessments described in clause (f) of section 59 of the Land Revenue Act

15 The attention of Revenue and Forest Officers is invited to the following Circulars, viz —

No 37 of 1879, relating to realization of forest income

No 60 of 1886 relating to the compounding of forest offences.

No 26 of 1887, relating to forest settlements

Circular No 42 of 1885 and Circular Memo No 3C of 1887 are hereby cancelled

(Financial Commissioner's Circular No 11 of 1888)

Instructions for regulation (m) WITH the sanction of the Punjab Government the Financial Commissioner issues the following instructions for the Forest Officers under Section 6 of the Indian Forest Act (No VII of 1878)

2 By the notifications quoted in the margin all Deputy Conservators, Assistant Conservators and Sub Assistant Conservators of Forests, when in charge of Forest Divisions are empowered to make certain compositions in accordance with the terms of Section 67 of the Indian Forest Act with persons who are reasonably suspected of having committed a forest offence

3 It is obvious that as a general rule powers such as those conferred by Section 67 should be exercised in personal communication with the person affected by them, and it should only rarely be necessary to proceed on written reports of subordinates, and in the absence of the person offering the composition. At the same time when the amount of damage done is insignificant, if it is necessary to take compensation at all it would be manifestly inequitable to drag a herdsman a long distance in order to make a petty payment of a rupee or two to the Forest Officer. In all such cases in which Forest Officers accept compositions under Section 67, otherwise than in personal communication with the person offering the composition, the Financial Commissioner directs that this circumstance and the reason for it shall be noted in the Register prescribed by paragraph 7 of this Circular

4 The Financial Commissioner also desires Deputy Commissioners and Forest Officers to bear in mind that the mere fact that cattle have trespassed in reserve forests does not by itself constitute a reasonable suspicion of the commission of a forest offence. In addition to the fact of the trespass there must be reasonable grounds to suspect that it was occasioned or permitted by the person offering the composition. When accepting a composition the Forest Officer should record (in Column 4 of Register appended) what these grounds are in the particular case

5 It is also necessary to remember that the composition to be paid is by way of compensation for any damage which may have been committed, and not by way of a fine. The damage should, therefore, be fairly estimated by the Forest Officer on facts brought to his notice, and should not be assumed as probable. And if, with reference to the circumstances of any case, the Forest Officer considers that a composition restricted in this manner will not be suitable, he should bring the case before the Magistrate for prosecution

6 At the same time as a Forest Officer compounds an offence, he may release on payment of its value any property seized under the authority of section 52. The value demanded for such property should be fairly estimated. If the Forest Officer is unwilling to release the

property seized, it will usually be best to refrain from compounding the offence, for the refusal to release the property seized necessitates a reference of the case to the Magistrate.

7. The Financial Commissioner further directs that records of proceedings preliminary to a demand for compensation be made as brief and informal as possible. Every officer empowered under Section 67 of the Act should keep a Register in the form appended, in which he will enter in his own hand, as they occur, the cases dealt with under that section—only those cases need be entered in which a composition is actually paid.

*Form of Register referred to in paragraph 7.*

1	2	3	4	5	6	7	8	9
Serial No.	Name and description of offender.	Forest in which offence was committed.	Particulars of offence and damage caused by offence, and date thereof.	Detail of property seized.	COMPOSITION PAID.		Date of payment.	Signature of compounding Officer.
					On account of damage caused by offence.	On account of value of property seized and released.		

*Circular cancelled.*

Conservator Forests' Circular No. 93, dated 9th January 1883.

#### APPENDICES.

1. Notification No. 532, dated 8th December 1879.
2. Notification No. 485, dated 4th November 1885. \*

Copy of Punjab Government Gazette Notification, Forest Department, No. 532, dated 8th December 1879.

No. 532 F.—Notification.—Under section 67 of Act VII of 1878 (the Indian Forest Act) the Lieutenant-Governor is pleased to invest with the powers described in the said section the Conservator of Forests, all Deputy Assistant and Sub-Assistant Conservators of Forests, when in charge of Forest Divisions. [The portion of above notification which has been cancelled by subsequent Notification No. 488, dated 31st October 1882, is omitted.]

(Financial Commissioner's Circular No. 60 of 1886).

Instructions for guidance of Forest Settlement Officers in proceedings under Chapter II of the Indian Forest Act, 1878. (n). The Financial Commissioner, with the sanction of the Hon'ble the Lieutenant-Governor, issues the following instructions for the guidance of Forest Settlement Officers in Proceedings under Chapter II of the Indian Forest Act, 1878.

#### *Preliminary Proposals*

1. Proposals to constitute Reserved Forests (whether initiated by local officers or framed in consequence of instructions received from superior authority) should be submitted by Deputy Commissioners to Commissioners and should be accompanied by—

- (i) a map showing the land which it is proposed to treat in this manner, and also the lands adjacent thereto;
- (ii) a draft Notification under section 4 of the Act;
- (iii) a report stating the rights in the land, so far as known, the manner in which the land has hitherto been managed, and the reasons for which it is desired to convert it into a Reserved Forest, with suggestions for the appointment of a Forest Settlement Officer and other agency, if any, required for his assistance.

\* Superseded—See Note (c), ante p. 1083.

2. In drawing up this report the Deputy Commissioner should avail himself of the assistance of the District Forest Officer. In his absence, or for the proper treatment of cases of sufficient importance, the Conservator of Forests may be able to place a Forest Officer at the Deputy Commissioner's disposal for the purpose. No detailed enquiry into rights should be made at this stage.

3. It is of particular importance that this report, which is the first step in Forest reservation proceedings, should state clearly the purpose for which the reservation is proposed, e.g., for the better supply of the adjacent population with timber, fuel, grass, or other forest produce; to meet the demands of railways, cities, or cantonments; to protect by forest growth hill sides and prevent destructive drainage; to grow or protect a high class of timber. The manner in which the reservation is likely to affect adjacent estates or population should also be noticed. To this end the map accompanying should show not only the lands which it is proposed to reserve but also the lands adjacent thereto, distinguishing inhabited sites, cultivation and waste. It is ordinarily difficult for an agricultural or pastoral population to modify their habits in conformity with novel demands of regulated forest management, and it is for the reporting officers to show either that the proposed reservation will not affect the conveniences of the adjacent population, or that sufficient necessity exists for restricting their conveniences.

4. The Commissioner on receipt of the Deputy Commissioner's report will forward it to the Conservator of Forests for his opinion, and after receipt of that officer's reply will submit the report to the Financial Commissioner with his recommendations.

#### *Forest Settlement Procedure*

5. When a proposal to constitute a Reserved Forest has been notified, and the Forest Settlement Officer has entered upon his duties and has issued the proclamation required by Section 6, his most immediate duty is to ascertain whether he has at his command a sufficiently accurate map of the land to be reserved, and if he has not, then to provide one, for which purpose Section 8 of the Act furnishes him with the necessary authority. Except for special reasons, the map should not be on a smaller scale than four inches to the mile. Its outer boundaries and the boundaries of all interior holdings should be carefully attested, and be compared with the existing records available in the District Record Office.

6. In the meantime all claims preferred and statements of rights of which the existence is ascertained (whether from previous records or from local inquiry) should be put up in a file and be dealt with in the manner provided by the Act. Claims should be clearly set out, either by petition or by deposition, or in both ways. If rights are believed to exist, and the right-holders do not appear, these persons should be summoned and be examined with reference to their rights. Documents relied on should be filed in original or if copies are filed, they should be admitted only after comparison with the originals. Where previous records are referred to, the original records should be inspected, and certified extracts should be filed. If claims or rights are disputed, suitable issues should be framed, evidence heard and findings be recorded thereon. In short, the Settlement Officer should remember that he is armed with the powers of a Civil Court and that his decision possesses a similar finality. At the same time separate files need not ordinarily be made up for each claim. Unless difficulties arise, it will be usually sufficient to deal with all claims and rights in three files according to the classification given in the paragraph next following.

7. In respect of the treatment of claims, attention is directed to the following instructions:—

Chapter II of the Forest Act divides the claims with which a Forest Settlement Officer has to deal into three classes, and provides a different method of treatment for each class. The three classes are—

Sections 11 to 14

- (i) claims to public or private ways or water courses,
- (ii) claims to rights of pasture or to forest produce,
- (iii) claims to other rights.

8. The Forest Settlement Officer must be careful to record all public and private ways and water-courses existing at the time of his inquiries, and in this class of claims must be included rights to use the water of wells, springs and streams situate inside the boundaries of the proposed reserve, for if the right to use such water exist it cannot be enjoyed unless a proper way of approach to the water is allowed. But though the Forest Settlement Officer is required to record all rights of this class, he has no authority to expropriate or commute them. His duty is limited to the drawing up of a clear record of them. Their future regulation is a matter for the Executive Government, under Section 24.

9. The treatment of the 2nd class of claims, viz., claims to rights of pasture or to forest produce, is the most difficult part of the Settlement Officer's duty. If, after the inquiry to which reference has been made in paragraph 6 above, he rejects a claim in whole or in part, he should be careful that his order contains all the

particulars required by Section 12. If he admit a claim, he should proceed to record with as much completeness as is possible all the particulars required by Section 13.

Having made this record, it remains for the Forest Settlement Officer to secure by one of the three methods laid down in Section 14 of the Act the continued exercise of the rights so admitted. He may either transfer the right to another forest tract under the conditions stated in Section 14 (a); or, under the conditions stated in Section 14 (b), he may exclude from the forest an area sufficient for the exercise of the rights established. Both of these methods possess obvious advantages, especially in the eyes of the right-holders, but it lies with the Forest Settlement Officer to take care that in resorting to them he does not burden any land with rights so extensive as to insure its ultimate deterioration. It is easy by a too ready resort to expedients of this nature to purchase the proper forest preservation of one forest area at the cost of the ultimate destruction of another forest area. The Forest Settlement Officer is under no necessity to sanction wasteful adjustments of this nature. Under Section 14 (c) he can record an order appointing the seasons at which, and the portions of forest in which, the rights shall be exercised, and he can also propose in his final report any rules which without restricting the rights admitted place appropriate safeguards on their exercise. In making arrangements of this nature, it is useful to bear in mind the necessity for providing that all areas burdened with rights shall be closed in rotation for reproduction. For instance where a right of grazing can be sufficiently provided for in a hundred acres, it is expedient, if possible, to record the right in a larger area, subject to adequate conditions for securing the closing of the whole in rotation.

All this is to be done to the best of the Forest Settlement Officer's ability, and with due regard to the successful maintenance of the forest under reservation. Primarily the Government is not interested in extinguishing rights of pasture or to forest produce. But in the last resort, and where really necessary in the interests entrusted to his charge, the Forest Settlement Officer has authority under Section 15 of the Act to expropriate these rights.

10. There remains the 3rd class of rights, which includes all those not mentioned above. In respect of these the Legislature leaves no option to the Forest Settlement Officer. He must either exclude from the forest the land on which these rights are claimed; or he must extinguish the rights. In this connection it should be remembered that, provided a given area of land is expressly excluded from the reserve, being clearly demarcated off, the mere fact that the reserved forest surrounds such land does not necessitate expropriation of the latter. No doubt such areas (commonly known as Chak Kharija) often create difficulties in forest management, and where this is the case, the Settlement Officer will act rightly in expropriating them. But in each instance the question is for his decision.

11. In carrying out expropriations care should be taken to comply with the rules issued by Government for the guidance of Deputy Commissioners in their proceedings under the Land Acquisition Act of 1870. For all proposed expropriations village statements should be prepared and filed as required by No. XIX of these rules, and the award should be entered in the district register (Rule XL). If reductions in the revenue roll are necessitated by these expropriations, the Settlement Officer should prepare and forward to the Deputy Commissioner the statement prescribed by Rule XXXI. and it will usually be convenient to him to do this at the same time as he makes his award.

12. As the settlement of the reserved forest proceeds, if its boundaries have not already been permanently marked out, it is the duty of the District Forest Officer to set up permanent pillars and to test the agreement of these pillars with the final record of the Forest Settlement Officer.

#### *Final Record and Report.*

13. This final record will be prepared by the Forest Settlement Officer as soon as the decision of claims has progressed sufficiently. It should comprise for each forest separately demarcated, or where the forest tract is of great size, for each convenient section thereof, (i) map, (ii) proceeding, (iii) final notification. Instructions as to the form and contents of these documents are appended, and no other paper should be added to this file, excepting only orders subsequently issued by the Local Government under Section 21 of the Act.

14. All claims having been disposed of and the above record having been completed it will then only remain for the Forest Settlement Officer to move the Local Government to issue the notification contemplated by Section 19. It is necessary that the Local Government should, before taking this step, be informed of the nature of the proceedings to which its final sanction is desired. To this end the Forest Settlement Officer should draw up a brief report stating, in addition to the information required by clauses (a), (b) and (c) of Section 19 of the Act, the general result of his proceedings. This report should be written by way of continuation of the preliminary report submitted under paragraph 1 of this Circular.

and need not repeat matters already sufficiently explained therein. No exact form is prescribed for the report. What is required is a brief summary of so much of the proceedings as has not already been reported, and of such a nature as to satisfy the Local Government that these proceedings can appropriately be confirmed. It should notice specially the matters referred to in paragraphs 9 and 10 above, and also the extent to which expropriations (by agreement or by award) have been resorted to, and the cost and other results of such expropriations. It should be accompanied by a Draft Notification for issue under Section 19 of the Act, by a map showing the limits of the forest as finally settled on the scale and with the other details required by paragraphs 1, 3 and 5 above, and also by an English abstract of the information given under heads V and VI of the proceeding prescribed by paragraphs 1 and 3 of Appendix I. This abstract should be drawn up with some care, for it is intended to serve as a convenient guide to the officers by whom the forest will be managed. If expropriations have been made, an abstract statement, in the form prescribed by Rule XXXI of Circular No. 27 of 1882, should also be added.

15. The report should be addressed to the Commissioner of the Division, but it should be forwarded, unless the Deputy Commissioner is himself the Forest Settlement Officer, through the Deputy Commissioner, who is required to add to it both his own opinion and that of the District Forest Officer. The Commissioner before forwarding the report to the Financial Commissioner will proceed as directed in paragraph 4 of this Circular.

16. The final record (paragraph 13) should not be forwarded to the Commissioner, but should be deposited in the District Record Office at the same time as the final report is submitted. These records will be permanently preserved.

17. The files of claims (paragraph 6) will also be deposited in the District Record Office, and Part A. of these files should also be preserved permanently.

#### *Special Proposals.*

18. The preceding instructions relate to the necessary procedure prescribed under Chapter II of the Indian Forest Act when it is proposed or resolved to constitute a reserved forest. In carrying out this procedure a Forest Settlement Officer must carefully limit himself to ascertaining, settling and recording rights actually existing and providing for their exercise and enjoyment in the manner prescribed in the Act. But much more than this is required to enable the Local Government to judge whether after the events mentioned in Section 19 of the Act have occurred it is or is not expedient to issue a notification under that section declaring the area to be a reserved forest. The result of the procedure of the Forest Act, when rights have been recorded and maintained, is to impose great restrictions on their exercise and to materially alter the previous usages of the people. To such changes, as already observed, the people are slow to accommodate themselves, and it is therefore incumbent on the Government to satisfy itself as to the probable effect which the reservation of the area and its strict management as a reserve will have upon the requirements of the neighbourhood and the habits of the people. This can best be ascertained by the Forest Settlement Officer in the course of his inquiries for the settlement of rights. If not ascertained and reported on by him, it would have to be separately enquired into and reported on by the Deputy Commissioner or other Revenue Officer, which would only cause delay and additional expense. In addition therefore to having his record of rights in strict accordance with the Act, the Forest Settlement Officer should in a separate proceeding record his opinion on the above points. If on regarding his work from this point of view, he is of opinion that the Government ought to make certain concessions beyond what has been awarded under the strict letter of the law, it is his duty to frame recommendations accordingly and to submit them either in a special report or as an appendix to his final report required by paragraph No. 14.

19. The recommendations would usually deal with two classes of cases, viz., those arising out of (1) the use of forest produce permitted as a matter of ordinary convenience in the absence of any strict management, but not supported by any clear right established by adverse enjoyment; and (2) the prospective wants of village communities or of individuals, whether members of village communities or not.

20. As regards the 1st class it is desirable to avoid, on the one hand, embarrassment to Government by hastily granting unduly liberal concessions which must ultimately be withdrawn in the interests of sound forest management; and, on the other hand, serious popular discontent by the harsh, illiberal, or undue restriction of usages, which contribute to the comfort and convenience of the adjacent population. The aim should usually be some executive arrangement giving no ground for any substantial grievance and so carefully guarded as not to infringe the recognised principles of forest management, nor to suggest claims that cannot legally be sustained.

21. The cases of the 2nd class are amongst the most difficult of any which occur in the course of a forest settlement. While it has been determined that the Forest Act does not justify the Forest Settlement Officer, as such, in providing for the prospective wants of non-existing settlers or of a future and possibly more numerous generation, it is nevertheless pointed out that he might have to take into account prospective wants in particular,



cases, as when a claimant had established a right of such a nature that it would probably in course of time entitle him to larger benefits from a forest than he was entitled to at the time of settlement. It is to be expected that in practice many intermediate cases will arise in which the Forest Settlement Officer will rightly entertain doubts as to what should be done under the Forest Act, and what by order of Government outside the Act, and by way of executive arrangement. It will be the safest plan to refer by an intermediate report for the special orders of Government (1) such doubtful cases, (2) any cases in which the results of a strict adherence to the procedure of the Forest Act would apparently conflict with some local popular custom, and (3) any cases in which claims are advanced or arrangements seem advisable not only for the present but for the prospective population of any village or tract.

22 On receipt from a Forest Settlement Officer of any intermediate or final report of the nature required by these instructions, the Deputy Commissioner (when not himself the Forest Settlement Officer) and the Commissioner of the Division will pay special attention to the questions how far the awards under the Act adequately provide for the reasonable requirements of the people, and what, if any, executive arrangements, beyond the scope of those awards, it would be expedient or equitable to make in order to meet those requirements.

23 The orders passed by Government on special proposals submitted under paragraphs 18 to 22 of this Circular should be briefly stated in the final record (see Appendix I), and if passed before submission of the final report should be recapitulated therein.

24 If in any case a Forest Settlement Officer in the course of his inquiries ascertains that difficulties and objections exist, which render the completion of the reservation probably undesirable, he should stay proceedings and submit a report through the Deputy Commissioner. This report will be dealt with by the Commissioner in the same manner as directed in paragraph 4 of this Circular for the original report.

#### Conclusion

25 The attention of Deputy Commissioners is requested to paragraphs 3 (VII) and 4 of the appended instructions concerning the record. The duty of completing the record by the addition of a copy of the final notification will ordinarily fall to the Deputy Commissioner. And if before or about the time of issuing the final notification any instructions of the nature contemplated in paragraphs 18 to 24 have been issued by Government, which the Forest Settlement Officer has not already incorporated into head VII of the proceeding, it is the duty of the Deputy Commissioner to add them.

### APPENDIX I

#### INSTRUCTIONS AS TO THE FORM AND CONTENTS OF FINAL RECORDS PREPARED BY FOREST SETTLEMENT OFFICERS FOR RESERVED FORESTS

The final record shall consist of a map, a proceeding and a copy of the final Notification issued under Section 19 of the Act.

2 The map shall not usually be on a smaller scale than 4 inches to the mile. It shall show distinctly boundary pillars, permanent survey marks, and physical features so far as may be convenient. The direct distance between each pair of boundary pillars shall wherever possible, be chained and recorded on the map. The map shall also distinguish by interior boundary lines and survey numbers—

- (i) Areas surrounded by the forest, but excluded from it (Chaks Khariji)
- (ii) Areas from which rights have been expropriated or in which they have been maintained or in which claims have been rejected in their entirety
- (iii) Public and private ways, water courses, springs and watering places

3 The proceeding shall contain the following information —

- (i) It shall quote the number and date of the Notification issued under Section 4 of the Act, and give the contents of the Notification, and the name of the Forest Settlement Officer appointed thereunder
- (ii) It shall give a list of all areas (Chaks Khariji) surrounded by the forest boundaries, but excluded from the forest, thus—

No on map	Area	Village to which it appertains

(iii) It shall give an abbreviated list of all claims rejected in entirety under Sections 10 and 11 of the Forest Act, thus—

Description of right claimed	AREA IN WHICH CLAIMED		By whom claimed (names with description)	Short abstract of order rejecting the claim
	No on map	Area		

(iv) Also a list of all rights expropriated, whether expropriated under Section 10 or Section 15, thus—

Description of right expropriated	AREA FROM WHICH EXPROPRIATED		Persons expropriated (names with description)	Short abstract of award
	No on map	Area		

(v). It shall describe the rights to pasturage and rights to forest produce admitted by the Forest Settlement Officer under Section 11 of the Act, and the manner in which he has under Sections 13 and 14 directed that those rights shall be hereafter exercised recording them in a schedule in the following form —

Names and description of persons to whom rights have been awarded	AREA IN WHICH AWARDED		Nature of rights with full detail of all matters covered by Section 13 of the Act	Orders issued under Section 14 of the Act for the future exercise of these rights
	No on map	Area		

- (vi) It shall describe existing rights of way public or private, and existing water-courses, also springs and watering places to which any persons have access arranging them in a schedule, thus—

Nature of right.	AREA IN WHICH EXERCISED.		By whom or how used.
	No. on map.	Area.	

and shall declare that these rights will in future be subject to regulation as provided in Section 24 of the Forest Act.

- (vii). A brief *resumé* shall be given of any special reports submitted to Government under paragraphs 19 to 24 of this Circular, and of the orders passed thereon. This *resumé* shall be in sufficient detail to guide both Revenue and Forest officials and also parties interested in these reports. Copies of the reports themselves should not be given to applicants. And any notice of opinions expressed by the reporting officers, but not approved by Government, should be excluded.

4. When the final Notification issues, a copy and translation thereof shall be added to the record. This copy shall be endorsed with a report stating the date on which and the villages in which a translation has been published as required by Section 20 of the Act.

5. The record shall be drawn up in the Vernacular language used in land revenue proceedings, and the survey shall be made on the land measure used in the land revenue records of the district in which the forest is situate.

(NOTE.—In the above instructions the words *names with description* mean name, father's name, caste or tribe and residence. If the entry is in favour of a whole village it may be so stated, names of individuals being omitted).

(Financial Commissioner's Circular No. 26 of 1887)

(c) *Rules for the Conservancy of Forests and Jungles in the Hill Districts of the Punjab Territories \**

1. In any Hill District within British jurisdiction, the Civil authorities have power to mark off any tract, plot, or ground, wheresoever situated, which they may consider to be specially adapted for the growth of timber or fuel.

2. The tract, plot, or ground, so marked off, may be declared to be a public preserve, denoted by boundary marks, fenced, and protected from trespass of all kinds. Within it the said authorities are empowered to prohibit, restrict, or regulate all felling and cutting, and to arrange for the development, preservation, and growth of the trees, shrubs, or brushwood, in such manner as may seem to them expedient.

3. The said authorities, within the said limits, are also competent to grant to any party privileges of cutting or felling, and to demand and receive fees from such party, and to determine the amount or rate of the fees.

4. Within the said Hill districts, the Civil authorities may proclaim, publicly, prohibition, restriction, or regulation in regard to the felling or cutting, or other injurious act for any purpose whatsoever, of any species of trees, shrub, or brush-wood, wheresoever it may be found growing, of whatever size or growth, whether grouped together or scattered about, which they may consider specially suited for the production of timber or fuel.

5. The said authorities, in regard to the said species of tree, shrub, or brush-wood, may grant privileges of felling or cutting to such parties as they may think proper, with or without the payment of fees, to be fixed as declared in rule 3.

6. No person shall be entitled to object to the foregoing rules, whether relating to enclosures or to particular species of tree, shrub, or brush-wood on the score of proprietary or manorial right, provided always that the Civil authorities do not interfere with the wood or fuel that may be really required by the occupants or owners of the land for agricultural or domestic purposes.

7. With the proviso above described, the Civil authorities within the said Hill district may prohibit, restrict, or regulate any operation which they may consider calculated to destroy or injure existing supplies of timber or fuel.

\* Sanctioned in letter of the Secretary to the Government of India, No. 1789, dated 31st May 1886, and declared to be in force in the Punjab by Act IV of 1872, Schedule I.

8 The setting fire to forest-grass, brush-wood, or other combustible substances in a manner calculated to destroy or injure existing supplies of timber or fuel, may be absolutely forbidden.

9 The villagers, the owners, and occupants of the land, may be rendered responsible for conflagrations occurring within their bounds, whether accidental or not, or by whomsoever caused, and such owner, occupant, or villager, may in this case be treated as if he had been guilty of an infraction of the rules.

10. The grazing of cattle or domestic animals of all kinds in such places, or with such license as may be, in the opinion of the Civil authorities, injurious to existing supplies of timber or fuel, may be prohibited, restricted, or regulated in such manner as may be deemed expedient, provided always that the proper grounds for the grazing or pasturing of such cattle be not interfered with.

11. The owner or possessor of cattle which may be found grazing or pasturing in contravention of the foregoing rule, or in public preserves, or in other forbidden ground, may be treated as if he had been guilty of an infraction of the rules.

12. Any person who may infringe any of the above rules for the conservancy of forest and jungle may be fined at the discretion of the Civil authority to an amount not exceeding Rs. 100 for each offence; such fine may be realized by sale of personal property; and in the event of non-realization, the offender may be imprisoned for a term not exceeding three months.

13. The Civil authorities may appoint foresters, rangers, or other officers for the purpose of enforcing these rules. Such officials shall be held to be vested with due authority to this end. They may range over and examine all forests and jungles within their jurisdiction respectively; lay information of violation of the rules; bring persons before the Civil authority who may be found infringing the said rules; and execute summonses; they will also be liable to the usual pains and penalties for the abuse of their authority.

[NOTE. — For orders issued under the authority of the above rules relating to the Hill tracts within village boundaries in the Rawalpindi district (excepting the Murree and Kahuta tahsils), see Punjab Government Notification, No. 457 F., dated 10th November 1879, *Punjab Gazette*, Part I, page 667, and No. 483 F., dated 29th November 1880, *Punjab Gazette*, Part I, page 408].

## ACT No. VIII of 1878.

(Passed on the 8th March 1878).

An Act to consolidate and amend the law relating to the levy of Sea Customs-duties.

Preamble.

Whereas it is expedient to consolidate and amend the law relating to the levy of Sea Customs-duties; It is enacted as follows :—

### CHAPTER I.

#### PRELIMINARY.

Short title.

1. This Act may be called "The Sea Customs Act, 1878."

Local extent.  
Commencement.

It extends to the whole of British India, and shall come into force on the first day of April 1878.

Repeal of enactments.

2. The Acts mentioned in the first schedule hereto annexed are repealed to the extent specified therein.

References to enact-ments repealed      All references to any of the said Acts, in Acts passed subsequently thereto, shall be read as if made to the corresponding provisions of this Act.

All appointments, rules, declarations, exemptions, and delegations made, Saving of appointments, powers conferred, forms and conditions prescribed, &c. values, fees, rates, and periods fixed, and notifications, instructions, directions, prohibitions, passes, and licenses issued, under any Act hereby repealed shall, if the same are in force at the time this Act comes into force, be deemed to have been respectively made, conferred, prescribed, fixed, and issued under this Act, in so far as they are consistent herewith.

3. In this Act, unless there be something repugnant in the subject or context—  
Interpretation.

(a) "Chief Customs-Authority" denotes the person authorized to exercise, subject to the Local Government, the chief control in matters relating to Sea-customs in any place in which this Act operates :

(b) "Chief Customs-officer" denotes the Chief Executive Officer of Sea-customs for any port to which this Act applies :

(c) "Customs-collector" includes every officer of Customs for the time being in separate charge of a Custom-house or duly authorized to perform all, or any special, duties of an officer so in charge :

(d) "Customs-port" means any place except Aden declared under Section 11 to be a port for the shipment and landing of goods :

(e) "Foreign port" means Aden and any place beyond the limits of British India :

(f) "Vessel" includes anything made for the conveyance by water of human beings or property :

(g) "Coasting-vessel" denotes any vessel proceeding from one Customs-port to another Customs-port, whether touching at any intermediate foreign port or not : or proceeding from or to a Customs-port to or from a place declared to be a port under Section 12 :

(h) "Master" when used in relation to any vessel, means any person, except a Pilot or Harbour Master, having command or charge of such vessel :

(i) "Warehousing port" means any Customs-port declared under Section 14 to be a warehousing port :

(j) "Warehouse" denotes any place appointed or licensed under Section 15 or Section 16.

4. When any person is expressly or impliedly authorized by the Agent of owner of goods owner of any goods to be his agent in respect of to be deemed owner for such goods for all or any of the purposes of this certain purposes Act, and such authorization is approved by the Customs-collector, such person shall, for such purposes, be deemed to be the owner of such goods.

5. Anything which a Master is required or empowered to do under When ship's agent may act for Master this Act may, with the express or implied consent of such Master and the approval of the Customs-collector, be done by a ship's agent.

## CHAPTER II.

### APPOINTMENT AND POWERS OF OFFICERS, &c.

**6.** The Local Government of every place in which duties of Sea-  
Appointment of Customs officers customs are leviable, may appoint such persons as it  
Suspension and dismissal of such officers thinks fit to be officers of Customs, and to exercise  
the powers conferred, and to perform the duties im-  
posed, by this Act on such officers. Every person  
so appointed may be suspended or dismissed by the Local Government  
which appointed him

**7.** The Local Government may delegate to any officer of Customs any  
Delegation of powers under Section 6 of the powers vested in it by the first clause of Sec-  
Suspension and dismissal of subordinate officers tion 6 Every person appointed in exercise of such  
delegated power may be suspended or dismissed  
by the officer who appointed him.

**8.** At any place for which there is no Custom-house, the Collector of  
Performance of duties of Customs-collector, where no Custom-house the District and the officers subordinate to him  
shall, unless the Local Government otherwise directs,  
perform all duties imposed by this Act on a Cus-  
toms-collector and other officers of Customs

**9.** The Chief Customs-Authority may, from time to time, with the  
Power to make rules sanction of the Local Government, make rules con-  
sistent with this Act—

(a) prescribing and limiting the powers and duties of officers of Cus-  
toms;

(b) regulating the delegation of their duties by such officers; and

(c) generally to carry out the provisions of this Act.

**10.** No Chief Customs-Authority, or Chief Customs-officer, and no  
Customs officers exempted from service on jury or inquest or as assessors. other officer of Customs whom such Chief Authori-  
ty or chief officer deems it necessary to exempt on  
grounds of public duty, shall be compelled to serve  
on any jury or inquest, or as an assessor.

## CHAPTER III.

### APPOINTMENT OF PORTS, WHARVES, CUSTOM-HOUSES, WAREHOUSES, AND BOARDING AND LANDING-STATIONS.

**11.** The Local Government may, from time to time, by notification in  
Power to appoint ports, wharves and Custom-houses the official Gazette—

(a) declare the places within the territories administered by it which  
alone shall be ports for the shipment and landing of goods;

(b) declare the limits of such ports;

(c) appoint proper places therein to be wharves for the landing and  
shipping of goods, or of particular classes of goods;

(d) declare the limits of any such wharf;

(e) alter the name of any such port or wharf; and

(f) declare what shall, for the purposes of this Act, be deemed to be a Custom-house, and the limits thereof.

**12.** The Local Government may also, from time to time, in like manner declare places to be ports for the carrying on of coasting trade with Customs-ports, or with any specified Customs-port, and for no other purposes.

*Power to declare places to be ports for coasting trade.*

**13.** The Governor-General in Council may from time to time direct by notification in the *Gazette of India*, that all goods or any specified class of goods imported from or exported to any foreign port to or from a Customs-port shall, with such limitations and on such conditions (if any) as he thinks fit, be treated for any of the purposes of this Act as goods imported from or exported to a Customs-port as the case may be.

*Power to declare that foreign ports shall be regarded as Customs-ports for certain purposes.*

**NOTE.**—It has been notified under this section that goods exported from British India to Portuguese India are to be treated, as regards payment of custom duties, as if they were exported to another British Indian port — (*Government of India No. 170, dated 4th February 1880*)

See also Government of India Notification No. 9, dated 31st January 1880, *Gazette of India* of same date, page 16

**14.** The Local Government may from time to time declare, by notification in the official Gazette, that any Customs-port shall be a warehousing port for the purposes of this Act.

*Power to declare warehousing ports.*

**15.** At any warehousing port, the Chief Customs-Authority may, from time to time, appoint public warehouses wherein dutiable goods may be deposited without payment of duty on the first importation thereof, and may cancel such appointment.

*Power to appoint public warehouses*

**16.** At any warehousing port the Chief Customs-Officer may, from time to time, license private warehouses wherein dutiable goods may be deposited as aforesaid.

*Power to license private warehouses.*

Every application for a license for a private warehouse shall be in writing, and shall be drawn up in such form as is, from time to time, prescribed by the Chief Customs-Authority, and shall be signed by the applicant. Every license granted under this section may be cancelled on conviction of the licensee of any offence under this Act relating to warehouses, unless it is otherwise provided in the license, or on the expiration of one month's notice in writing given to the licensee by the Chief Customs-Officer.

*Form of application for license*  
*Revocation of license.*

**17.** The Chief Customs-Authority may, from time to time, appoint, in or near any Customs-port, stations, or limits at or within which vessels arriving at, or departing from, such port shall bring to for the boarding or landing of officers of Customs, and may, unless separate provision therefor has been made under the Indian Ports Act, 1875, direct at what particular place in any such port vessels, not brought into port by pilots, shall anchor or moor.

*Stations for Customs-officers to board and land.*

## CHAPTER IV.

## PROHIBITIONS AND RESTRICTIONS OF IMPORTATION AND EXPORTATION.

## Prohibitions.

18. No goods specified in the following clauses shall be brought, whether by land or sea, into British India :—

(a) any book printed in infringement of any law in force in British India on the subject of copyright, when the proprietor of such copyright, or his agent, has given to the Chief Customs-Authority a notice in writing that such copyright subsists, and a statement of the date on which it will expire :

(b) counterfeit coin : or coin which purports to be Queen's coin of India, or to be coin made under the Native Coinage Act, 1876, but which is not of the established standard in weight or fineness :

(c) any obscene book, pamphlet, paper, drawing, painting, representation, figure, or article :

(d) articles bearing any names, brands, or marks being, or purporting to be, the names, brands, or marks of manufacturers resident in the United Kingdom or British India, and not made by such manufacturers.

19. The Governor-General in Council may, from time to time, by notification in the *Gazette of India*, prohibit or restrict the bringing or taking by sea or by land goods of any specified description into or out of British India or any specified part of British India.

Power to prohibit or restrict importation or exportation of goods. NOTES.—(a): In exercise of the powers conferred by Section 19 of the Sea Customs Act 1878, the Governor-General in Council is pleased to prohibit the importation into ports in British India of cotton goods impressed with designs in imitation of Currency Notes, Promissory Notes, or Stock Notes of the Government of India. This order shall come into force from the 1st of March 1883.—(*Government of India Notification No. 4378, dated 10th November 1882*).

(b). In exercise of the powers conferred by Section 19 of the Sea Customs Act, 1878, the Governor-General in Council prohibits the bringing or taking by sea or by land into or out of British India of arms, ammunition, or military stores, as defined in the Indian Arms Act, 1878, except in accordance with the provisions of that Act and the rules and orders issued thereunder.—(*Government of India Notification No. 2251, dated 16th August 1879*).

(c). In exercise of the powers conferred by Section 19 of the Sea Customs Act, VIII of 1878, the Governor-General in Council is pleased to prohibit the bringing into British India by sea or by land of pieces of metal resembling in shape and in size, and stamped either on the obverse or on the reverse in imitation of rupees, half-rupees, quarter-rupees and eighth-rupees. This order shall come into force from the 1st June next.—(*Government of India No. 88 S., dated 22nd March 1887, Gazette of India of 26th idem*).

## CHAPTER V.

## LEVY OF, AND EXEMPTION FROM, CUSTOMS-DUTIES.

20. Except as hereinafter provided, Customs-duties shall be levied at such rates as may be prescribed by or under any law for the time being in force, on—  
Goods dutiable.

(a) goods imported or exported by sea into or from any Customs-port from or to any foreign port ;



(b) opium, salt, or salted fish imported by sea from any Customs-port into any other Customs-port ;

(c) goods brought from any foreign port to any Customs-port, and, without payment of duty, there transhipped for, or thence carried to, and imported at, any other Customs-port ; and

(d) goods brought in bond from one Customs-port to another :

Provided that no such duties shall be levied on goods belonging to the  
Proviso Government.

21. Except as otherwise expressly provided by any law for the time being in force, goods whereof any article liable to duty under this Act forms a part or ingredient shall be chargeable with the full duty which would be payable on such goods if they were entirely composed of such article, or, if composed of more than one article liable to duty, then with the full duty which would be payable on such goods if they were entirely composed of the article charged with the highest rate of duty.

Goods partially composed of dutiable articles

28. The Governor-General in Council may, from time to time, by notification in the *Gazette of India*, fix, for the purpose of levying duties, tariff-values of any goods exported or imported by sea on which Customs-duties are by law imposed, and alter any such values fixed by any Tariff Act for the time being in force.

NOTE.—In exercise of the powers conferred by Section 22 of the Sea Customs Act, 1878, the Governor-General in Council is pleased, in modification of Schedule A, of the Indian Tariff Act, 1875, and Notification No 71C, dated the 6th March 1880, to declare that importations of cast steel shall henceforth be assessed for duty *ad valorem* instead of at a fixed valuation. —(Government of India Notification No. 72C, dated 12th February 1881).

23. The Governor-General in Council may from, time to time, by notification in the *Gazette of India*, exempt any goods imported into, or exported from, British India, or into or from any specified port therein, from the whole or any part of the Customs-duties leviable on such goods

General power to exempt from Customs-duties

The Local Government may, by special order in each case, exempt from the payment of duty, under circumstances of an exceptional nature, to be stated in such order, any goods on which Customs-duties are leviable.

Power to authorize, in special cases, exemption from duty.

NOTE.—For exemptions under this section, see Note (b) at end of Act

24. The Customs-collector may, subject to any general rules relating to the landing and shipping of passengers' baggage and the passing of the same through the Custom-house which may be made under Section 75, pass free of duty any baggage in actual use, and for this purpose may determine, subject to any such rules, whether any goods shall be treated as baggage in actual use, or as goods subject to duty.

Baggage in actual use

25. If goods produced or manufactured in British India be imported into any Customs-port from any foreign port, such goods shall be liable to all the duties, conditions, and restrictions (if any) to which goods of the like kind and value not so produced or manufactured are liable on the first importation thereof :

Re imported articles of country-produce.

Provided that, if such importation takes place within three years after the exportation of such goods, and it is proved to the satisfaction of the Customs-collector that the property in such goods has continued in the person by whom, or on whose account, they were exported, the goods may be admitted without payment of duty.

**26.** Any goods produced or manufactured in British India which have been exported therefrom, and on the exportation of which any drawback of excise has been received, shall, on being imported into any Customs-port, be subjected, unless the Chief Customs-Authority in any particular case otherwise directs by special order, to payment of excise duty, at the rate to which goods of the like kind and quality are liable at such port.

**27.** All goods derelict, jetsam, flotsam, and wreck, brought or coming into any place in British India, shall be subject to the same duties, if any, to which goods of the like kind are for the time being subject on importation at any Customs-port, and shall in other respects be dealt with as if they were imported from a foreign port, unless it be shown to the satisfaction of the Customs-collector that such goods are the produce or manufacture of any place from which they are entitled to be admitted duty-free.

**28.** Provisions and stores produced or manufactured in British India, required for use on board of any vessel proceeding to any foreign port, may be shipped free of duty whether of customs or excise, in such quantities as the Customs-collector determines with reference to the tonnage of the vessel, the numbers of the crew and passengers, and the length of the voyage on which the vessel is about to depart :

Provided that no rum shall be so shipped on any vessel going on a voyage of less than thirty days' probable duration.

**29.** On importation into, or exportation from, any Customs-post of any goods, whether liable to duty or not, the owner of such goods shall in his bill-of-entry or shipping-bill, as the case may be, state the real value, quantity, and description of such goods to the best of his knowledge and belief, and shall subscribe a declaration of the truth of such statement at the foot of such bill.

In case of doubt, the Customs-collector may require any such owner or any other person in possession of any invoice, broker's note, policy of insurance, or other document whereby the real value, quantity, or description of any such goods can be ascertained, to produce the same, and to furnish any information relating to such value, quantity, or description which it is in his power to furnish. And thereupon such person shall produce such document and furnish such information :

Provided that, if the owner makes and subscribes a declaration before the Customs-collector to the effect that he is unable, from want of full information, to state the real value or contents of any case, package, or parcel of goods, then the Customs-collector shall permit him, previous to the entry thereof,

(1) to open such case, package, or parcel, and examine the contents in presence of an officer of Customs, or

(2) to deposit such case, package, or parcel in a public warehouse appointed under Section 15 without warehousing the same, pending the production of such information.

30. For the purposes of this Act the real value shall be deemed to be—  
 "Real value" defined

(a) the wholesale cash-price, less trade-discount, for which goods of the like kind and quality are sold, or are capable of being sold, at the time and place of importation or exportation, as the case may be, without any abatement or deduction whatever, except (in the case of goods imported) of the amount of the duties payable on the importation thereof : or

(b) where such price is not ascertainable, the cost at which goods of the like kind and quality could be delivered at such place without any abatement or deduction except as aforesaid.

31. Goods chargeable with duty upon the value thereof, but for which a specific value is not fixed by law for purpose of levying duties thereon, shall, without necessary delay, be examined by an officer of Customs. If it appears that the real value of such goods is correctly stated in the bill-of-entry or shipping-bill the goods shall be assessed in accordance therewith.

32. If it appears that such goods are properly chargeable with a higher rate or amount of duty than that to which they would be subject according to the value thereof as stated in the bill-of-entry or shipping-bill, such officer may detain such goods.

In every such case the detaining officer shall forthwith give notice in writing to the owner of the goods of their detention, and of the value thereof as estimated by him ; and the Customs-collector shall, within two clear working days after such detention, or within such reasonable period as may with the consent of the parties be arranged, determine either to deliver such goods on payment of duty charged according to the entry of such owner, or to retain the same for the use of Government.

If the goods be retained for the use of Government, the Customs-collector shall cause the full amount stated in the bill as their real value to be paid to the owner in full satisfaction for such goods, in the same manner as if they had been transferred by ordinary sale, and shall, after due notice in the local official Gazette, or some local newspaper, and without unnecessary delay, cause them to be put up to public auction in whole-sale lots for cash on delivery.

If the Customs-collector deems the highest offer made at such sale to be inadequate, he may either adjourn the sale to some other day, to be notified as aforesaid, or buy in the goods, and without unnecessary delay dispose of them for the benefit of Government.

If the proceeds arising from such sale exceed the sum paid to the owner together with (in the case of goods imported) the duty to which the goods are liable and all charges incurred by Government in connection with them, a portion not exceeding one-half of the overplus shall, at the discretion of the Chief Officer of Customs, be payable to the officer who detected the undervaluation of the goods.

Nothing in this section shall prevent the Chief Officer of Customs, when he has reason to believe that any such under-valuation was solely the result of accident or error, from permitting the owner of the goods, on his application for that purpose, to amend such entry, on payment of such increased rate of duties on the excess of the amended over the original valuation, or on such other terms as the Chief Officer of Customs may determine.

33. If, on the first examination of any such goods under Section 31, the owner thereof states in writing that such goods are, in consequence of damage sustained before delivery of the bill-of-entry, of value less than that stated in such bill, the Customs-collector, on being satisfied of the fact, may allow abatement of duty accordingly.

Abatement allowed on damaged goods

The reduced duty to be levied on such goods may be ascertained by either of the following methods, at the option of the owner—

Reduced duty how determined.

(a) the real value of such goods may be fixed on appraisement by an officer of Customs, and the duty may be assessed on the value so fixed; or

(b) the goods may, after due notice in the local official Gazette or some local newspaper, be sold by public auction at such time (within thirty days from the date of delivery of the bill of entry), and at such place, as the Customs-collector appoints; and the duty may be assessed on the gross amount realized by such sale, without any abatement or deduction, except (in the case of goods imported) of so much as represents the duties payable on the importation thereof.

34. When any goods, the value of which has been fixed by law for the purpose of levying duties thereon, have before delivery of the bill-of-entry, deteriorated to the extent of more than one-tenth of their value, the duty on such goods shall, if the owner thereof so desires, be assessed *ad valorem*.

The real value of such goods shall be ascertained as provided in Section 33, and the duty shall be assessed thereon.

35. No abatement of duty on account of damage shall be allowed on wines, spirit, or beer, or on any other articles on which duties are levied on quantity and not on value.

36. Except as provided in Section 94, no amendment of a bill-of-entry or shipping-bill relating to goods assessed for duty on the declared value, quantity, or description thereof, shall be allowed after such goods have been removed from the Custom-house.

Deterioration of tariff-value goods

No abatement when duty is levied on quantity.

Restriction on amendment of bill-of-entry or shipping-bill.

**37.** The rate of duty and the tariff-valuation (if any) applicable to any goods imported shall be the rate and valuation in force on the date on which the bill-of-entry thereof is delivered to the Customs-collector under Section 86:

*Alteration of import-duty or tariff valuation.*

Provided that, when such rate or valuation has been raised after the grant of port-clearance at the port of shipment, the rate and valuation applicable to such goods shall be the rate and valuation in force on the date of such grant :\*

Provided also that if such goods are warehoused and re-assessed under Section 115 of this Act, the rate and valuation applicable thereto shall be the rate and valuation in force at the time when application is made to clear such goods for home consumption.

*Explanation.*—A bill-of-entry shall for the purposes of this section be deemed to be delivered when it is first presented to the proper officer of Customs.

*NOTE.*—“ The rate of duty applicable to petroleum of which the bill-of-entry is delivered within the meaning of Section 37 of the Sea Customs Act, 1878, to the Customs-collector under Section 86 of that Act after the passing of this Act, shall be the rate of duty specified in the second schedule to the Indian Tariff Act, 1882, as amended by this Act.” See Act II of 1888, Section 2.

**38.** The rate of duty and tariff-valuation (if any) applicable to any goods exported shall be the rate and valuation in force when a shipping-bill of such goods is delivered under Section 137.

*Alteration of export-duty or tariff-valuation*

**39.** When Customs-duties or charges have been short-levied through inadvertence, error, collusion, or misconstruction on the part of the officers of Customs, or through misstatement as to real value, quantity, or description on the part of the owner, or when any such duty, or charge, after having been levied, has been owing to any such cause erroneously refunded,

*Payment of duties short-levied or erroneously refunded*

the person chargeable with the duty or charge so short-levied, or to whom such refund has erroneously been made, shall pay the deficiency or repay the amount paid to him in excess, on demand being made within three months from the date of the first assessment or making of the refund ;

and the Customs-collector may refuse to pass any goods belonging to such person until the said deficiency or excess be paid or repaid.

**40.** No Customs-duties or charges which have been paid and of which repayment, wholly or in part, is claimed in consequence of the same having been paid through inadvertence, error or misconstruction, shall be returned, unless such claim is made within three months from the date of such payment.

*No refund of charges erroneously levied or paid, unless claimed within three months.*

**41.** The Customs-collector may, if he thinks fit, instead of requiring payment of Customs-duties and charges due from any mercantile firm or public body, at the time such duties and charges are payable under this Act, keep with such firm or body an account-current of such duties and charges. Such account shall be settled at intervals not exceeding one month, and such firm or body shall make a deposit or furnish security sufficient in the opinion of the Customs-collector to cover the amount which may at any time be due from them in respect of such duties and charges.

*Power to give credit for and keep account-current of duties and charges*

## CHAPTER VI.

### DRAWBACK.

**42.** When any goods, capable of being easily identified, which have been imported by sea into any Customs-port from any foreign port, and upon which duties of Customs have been paid on importation, are re-exported by sea from such Customs-port, to any foreign port, or as provisions or stores for use on board a ship proceeding to a foreign port, seven-eighths of such duties shall, except as otherwise hereinafter provided, be repaid as drawback.

Drawback allowable on re-export

Provided that, in every such case, the goods be identified to the satisfaction of the Customs-collector at such Customs-port, and that the re-export be made within two years from the date of importation, as shown by the records of the Custom-house, or within such extended term as the Chief Customs-Authority, on sufficient cause being shown, in any case determines.

Conditions for grant of drawback.

**43.** When any goods having been charged with import-duty at one Customs-port and thence exported to another, are re-exported by sea as aforesaid, drawback shall be allowed on such goods as if they had been so re-exported from the former port :

Drawback on goods exported to Customs-port and thence to foreign port.

Provided that, in every such case, the goods be identified to the satisfaction of the officer in charge of the Custom-house at the port of final exportation, and that such final exportation be made within three years from the date on which they were first imported into British India.

Proviso.

**44.** A drawback of the whole of the Customs-duties shall be allowed on wine and spirit intended for the consumption of any officer of Her Majesty's Navy, on board of any of Her Majesty's ships in actual service, unless such wine and spirit have been warehoused without payment of duty on the first entry thereof.

Drawback of duties on wine and spirit allowed for officers of Navy.

The quantity of wine and spirit on which drawback may be so allowed in any one year for the use of such officers shall not exceed the quantities hereinafter allowed for each such officer respectively : that is to say—

For every Admiral	...	...	...	...	1,260 Gals.
Vice-Admiral	...	...	...	...	1,050 „
Rear-Admiral	...	...	...	...	840 „
Captain of 1st and 2nd rate	...	...	...	...	630 „
Captain of 3rd, 4th and 5th rate...	...	...	...	...	420 „
Captain of an inferior rate	...	...	...	...	210 „
Lieutenant or other Commanding Officer,					
Marine-officer, Master, Purser or Surgeon					105 „

**45.** Every person clearing and claiming drawback for wine or spirit, as provided in Section 44, shall state in the shipping-bill the name of the officer for whose use such wine or spirit is intended, and of the ship in which he serves, as well as the place and date of the last supply for which drawback was allowed.

Persons entering such wine or spirit for drawback to declare name and rank of officer claiming same.

All such wine and spirit shall be delivered into the charge of the proper officers of Customs at the port of shipment, to be shipped under their care, and when the officer commanding the ship has certified the receipt of such wine and spirit into his charge, and any such officer of Customs has certified the shipment, the drawback shall be paid to the person entitled to receive the same.

46. The Customs-collector may permit the transfer of any such wine or spirit from one Naval officer to another Naval officer on board of the same, or of any other such vessel, as part of his authorized quantity; or may permit the transshipment of any such wine or spirit from one vessel to another for the use of the same Naval officer; or the re-landing and warehousing of any such wine or spirit for future re-shipment.

The Customs-collector may also receive back the duties for any such wine or spirit, and allow the same to be cleared for home-consumption.

47. Provisions and stores for the use of Her Majesty's Navy or of any officer thereof which are subject to duty may, in like manner, be transferred, transhipped, or reloaded and warehoused, free of duty; and where duties have been paid on any such provisions or stores required for shipment, drawback of such duties, whether of customs or excise, shall be allowed on receipt of an application in writing from the officer commanding the ship for which they are intended, or from some other officer duly authorized to make such application.

48. The provisions of Sections 44, 45, 46 and 47 as to officers of Her Majesty's Navy apply also to officers of Her Majesty's Indian Marine and Marine-Survey on board of any of the ships of such Marine or Survey proceeding to any port out of India, and the rules prescribed by Section 47 as to provisions and stores for the use of Her Majesty's Navy apply also to provisions and stores for the use of such Marine or Survey.

49. The Governor-General in Council may, from time to time, by notification in the *Gazette of India*,—

Power to declare what goods are identifiable :

and to prohibit drawback in case of specified foreign port.

(a) declare what goods shall, for the purpose of this chapter, be deemed to be capable of being easily identified; and

(b) prohibit the payment of drawback upon the re-exportation of goods to any specified foreign port in India.

NOTE.—See Government of India No. 77 dated 7th May 1879, *Gazette of India* of 10th idem, page 334, and No. 1117, dated 10th June 1881, *Gazette of India* of 11th idem, page 227.

50. Notwithstanding anything hereinbefore contained, no drawback shall be allowed—

(a) upon goods not included in the export-manifest, or

(b) where the goods to be exported are of less value than the amount of drawback claimed, or

(c) where the claim is for drawback amounting, in respect of any single shipment, to less than five rupees, and the Customs-collector thinks fit to reject it, or

(d) on salt, salted fish, or opium.

51. No drawback shall be allowed unless the claim to receive such drawback be made and established at the time of re-export.

Time to claim drawback.

No such payment of drawback shall be made until the vessel carrying the goods has put out to sea, or unless payment be demanded within six months from the date of entry for shipment.

When payment made.

52. Every person, or his duly authorized agent, claiming drawback on any goods duly exported, shall make and subscribe a declaration that such goods have been actually exported, and have not been re-landed and are not intended to be re-landed at any Customs-port, and that such person was at the time of entry outwards and shipment, and continues to be, entitled to drawback thereon.

Declaration by parties claiming drawback

## CHAPTER VII.

### ARRIVAL AND DEPARTURE OF VESSELS.

#### *Arrival and entry of vessel inwards.*

53. The Local Government may, by notification in the local official Gazette, fix a place in any river or port, beyond which no vessel arriving shall pass until a manifest has been delivered to the Pilot, officer of Customs, or other person duly authorized to receive the same.

Power to fix places beyond which inward bound vessels are not to proceed until manifest delivered

If, in any river or port wherein a place has been fixed by the Local Government under this section, the Master of any vessel arriving remains outside or below the place so fixed, such Master shall, nevertheless, within twenty-four hours after the vessel anchors, deliver a manifest to the Pilot, officer of Customs, or other person authorized to receive the same.

Delivery of manifest when vessel anchors below place so fixed

54. If any vessel arrives at any Customs-port in which a place has not been so fixed, the Master of such vessel shall, within twenty-four hours after such vessel has anchored within the limits of the port, deliver a manifest to the Pilot, officer of Customs, or other person authorized to receive the same.

Delivery of manifest where no place has been so fixed

55. Every manifest shall be signed by the Master, shall specify all goods imported in such vessel, showing separately all goods (if any) intended to be landed, transhipped or taken on to another port, and all ships' stores intended for consumption in port or on the homeward voyage, and shall contain such further particulars, and be made out in such form, as the Chief Customs-Authority may from time to time direct.

Signature and contents of manifest

The Customs-collector shall permit the Master to amend any obvious error in the manifest, or to supply any omission which in the opinion of such Collector results from accident or inadvertence, by furnishing an amended or supplementary manifest, and may, if he thinks fit, levy thereon such fee as the Chief Customs-Authority from time to time directs. Except as herein provided, no import-manifest shall be amended.

Amendment of errors in manifest



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56. The person receiving a manifest under Section 53 or 54 shall countersign the same and enter thereon such particulars as the Chief Customs-Authority from time to time directs in this behalf.

5. No vessel arriving in any Customs-port shall be allowed to break bulk until a manifest has been delivered as hereinbefore provided ; nor until a copy of such manifest, together with an application for entry of such vessel inwards, has been presented by the Master to the Customs-collector, and an order has been given thereon for such entry.

58. The Master shall, if required so to do by the Customs-collector at the time of presenting such application, deliver to the Customs-collector the bill of lading or a copy thereof for every part of the cargo laden on board, and any port-clearance, cockett, or other paper granted in respect of such vessel at the place from which she is stated to have come, and shall answer all such questions relating to the vessel, cargo, crew, and voyage as are put to him by such officer.

The Customs-collector may, if any requisition or question made or put by him under this section is not complied with or answered, refuse to grant such application.

59. Notwithstanding anything contained in Section 57, the Customs-collector may grant, prior to receipt of the manifest, and to the entry inwards of the vessel, a special pass permitting bulk to be broken.

The granting of such pass shall be subject to such rules as may, from time to time, be made by the Chief Customs-Authority.

60. Notwithstanding anything contained in Section 53, 54, 57 or 58, the Customs-collector may accept from the ship's agent, in lieu of the Master, delivery of the manifest or of any other document required by those sections to be delivered by the Master.

*Entry outwards, port-clearance, and departure of vessels.*

61. No vessel shall take on board any part of her export-cargo, until a written application for entry of such vessel outwards, subscribed by the Master of such vessel, has been made to the Customs-collector, or before an order has been given thereon by such officer for such entry. Every application made under this section shall specify the name, tonnage, and national character of the vessel, the name of the Master, and the name of every place for which cargo is to be shipped.

62. No vessel, whether laden or in ballast, shall depart from any Customs-port until a port-clearance has been granted by the Customs-collector or other officer duly authorized to grant the same. And no Pilot shall take charge of any vessel proceeding to sea, unless the Master of such vessel produces a port-clearance.

Application for port-clearance.

63. Every application for port-clearance shall be made by the Master at least twenty-four hours before the intended departure of the vessel.

Master on applying for port-clearance to deliver documents and answer questions.

The Master shall at the time of applying for port-clearance—

(a) deliver to the Customs-collector a manifest in duplicate in such form as may, from time to time, be prescribed by the Chief Customs-Authority, signed by such Master, specifying all goods to be exported in the vessel, and showing separately all goods and stores entered in the import-manifest, and not landed or consumed on board or transhipped :

(b) deliver to the Customs-collector such shipping bills or other documents as such Customs-collector, acting under the general instructions of such chief Customs-Authority, requires ; and

(c) answer to the proper officer of Customs such questions touching the departure and destination of the vessel as are demanded of him.

The provisions of Section 55 relating to the amendment of import-manifests shall, *mutatis mutandis*, apply also to export-manifests delivered under this section

Power to refuse port-clearance

64. The Customs-collector may refuse port-clearance to any vessel until—

(a) the provisions of Section 63 are complied with ;

(b) all port-dues and other charges and penalties due by such vessel, or by the owner or Master thereof, and all duties payable in respect of any goods shipped therein, have been duly paid, or their payment secured by such guarantee, or by a deposit at such rate, as such Customs-collector directs ;

(c) the ship's agent (if any) delivers to the Customs-collector a declaration in writing to the effect that he will be liable for any penalty imposed under Section 167, No. 17, and furnishes security for the discharge of the same ;

(d) the ship's agent (if any) delivers to the Customs-collector a declaration in writing to the effect that such agent is answerable for the discharge of all claims for damage or short delivery which may be established by the owner of any goods comprised in the import-cargo in respect of such goods.

A ship's agent delivering a declaration under clause (c) of this section shall be liable to all penalties which might be imposed on the Master under Section 167, No. 17, and a ship's agent delivering a declaration under clause (d) of this section shall be bound to discharge all claims referred to in such declaration.

65. When the Customs-collector is satisfied that the provisions of Section 63, and if necessary of clause (b) and (c) and (d) of Section 64, have been complied with, he shall grant a port-clearance to the Master, and shall return at the same time to such Master one copy of the manifest duly countersigned by the proper officer of Customs.

**66.** Notwithstanding anything contained in Sections 64 and 65, the Customs-collector may (subject to such rules as the Chief Customs-Authority may, from time to time, prescribe) grant a port-clearance to the Master when the ship's agent furnishes such security as the Customs-collector deems sufficient for duly delivering, within five days from the date of such grant, the manifest and other documents specified in Section 63.

## CHAPTER VIII.

### GENERAL PROVISIONS AFFECTING VESSELS IN PORT.

**67.** The Customs-collector at any Customs-port may at any time depute at his discretion one or more officers of Customs to board any vessel in or arriving at such port. Every officer of Customs so sent shall remain on board of such vessel by day and by night unless or until the Customs-collector otherwise orders.

*Grant of port-clearance on security of ship's agent*  
*Power to depute Customs-officer to board ships*  
*Duty of such officer.*

**68.** Whenever an officer of Customs is so deputed on board of any vessel, the Master of such vessel shall be bound to receive on board such officer, and one servant of such officer, and to provide such officer and servant with suitable shelter and accommodation, and likewise with a due allowance of fresh water, and with the means of cooking on board.

*Officer and servant to be received*  
*Accommodation of officer and servant*

**69.** Every officer of Customs so deputed shall have free access to every part of the vessel, and may fasten down any hatchway or entrance to the hold, and mark any goods before landing, and lock up, seal, mark, or otherwise secure any goods on board of such vessel.

*Officers of Customs to have free access to every part of ship, and may seal and secure goods.*

If any box, place, or closed receptacle in any such vessel be locked, and the key be withheld, such officer shall report the same to the Customs-collector, who may thereupon issue to the officer on board, or to any other officer under his authority, a written order to search.

*Power to authorize search, and opening of locks*

On production of such order, the officer bearing the same may require that any such box, place, or closed receptacle be opened in his presence; and if it be not opened upon his requisition, he may break open the same.

**70.** Unless with the written permission of the Customs-collector, or in accordance with a general permission granted under Section 74, no goods, other than passengers' baggage, or ballast urgently required to be shipped for the vessel's safety, shall be shipped or waterborne to be shipped or discharged from any vessel in any Customs-port, except in the presence of an officer of Customs.

*Goods not to be shipped, discharged or water borne except in presence of officer.*

**71.** When an officer of Customs is deputed under Section 67 to remain on board a vessel, the tonnage of which does not exceed six hundred tons, a period of thirty working days, reckoned from the date on which he

*Period allowed for discharge and shipment of cargo.*

boards such vessel, or such additional period as the Customs-collector directs, shall be allowed for the discharge of import-cargo and the shipment of export-cargo on board of such vessel.

One additional day shall, in like manner, be allowed for every fifty tons in excess of six hundred. No charge shall be made for the services of a single officer of Customs for such allowed number of working days, or for the services of several such officers (if available) for respective periods not exceeding in the aggregate such allowed number of working days.

If the period occupied in the discharge and shipment of cargo be in excess of thirty working days, together with the additional period (if any) allowed under this section, the vessel shall be charged with the expense of the officer of Customs at a rate not exceeding five rupees per diem (Sundays and holidays excepted) for such excess period.

In calculating any period allowed, or any charge made, under this section, the period (if any) during which a vessel, after the completion of the discharge of import-cargo, and before commencing the shipment of export-cargo, is laid up by the withdrawal of the officer of Customs, upon application from the Master, shall be deducted.

**72.** Except with the written permission of the Customs-collector, no goods, other than passengers' baggage, shall in any Customs-port be discharged from any vessel, or be shipped or water-borne to be shipped—  
Goods not to be landed, &c., on Sundays or holidays without permission, nor except within fixed hours

(a) on any Sunday or on any holiday or day on which the discharge or shipping of cargo, as the case may be, is prohibited by the Chief Customs-Authority ;

(b) on any day, except between such hours as such authority from time to time appoints by notification in the official Gazette.

**73.** No goods shall in any Customs-port be landed at any place other than a wharf or other place duly appointed for that purpose, and, unless with the written permission of the Customs-collector, or when a general permission has been granted under Section 74, no goods shall in any Customs-port be shipped or water-borne to be shipped from any place other than a wharf or other place duly appointed for that purpose.  
Goods not to be shipped, &c., except at wharves.

**74.** Notwithstanding anything contained in Section 70 or 73, the Chief Customs-Authority may, by notification in the local official Gazette, give general permission for goods to be shipped or water-borne to be shipped in any Customs-port from all or any places not duly appointed as wharves, and without the presence or authority of an officer of Customs.  
Power to exempt from Sections 70 and 73.

**75.** The Chief Customs-Authority may from time to time make rules for the landing and shipping of passengers' baggage and the passing of the same through the Customs-house ; and for the landing, shipping, and clearing of parcels forwarded by Her Majesty's or other mails, or by other regular packets and passenger vessels.  
Power to make rules regarding baggage and mails.

When any baggage or parcels is or are made over to an officer of Customs for the purpose of being landed, a fee of such amount as the Local Government from time to time directs shall be chargeable thereon, as compensation for the expense and trouble incurred in landing and depositing the same in the Custom-house.

**76.** When any goods are water-borne for the purpose of being landed from any vessel and warehoused or cleared for home-consumption, or of being shipped for exportation on board of any vessel, there shall be sent, with each boat-load or other separate despatch, a boat-note specifying the number of packages so sent and the marks and numbers or other description thereof. Each boat-note for goods to be landed shall be signed by an officer of the vessel, and likewise by the officer of Customs on board, if any such officer be on board, and shall be delivered on arrival to any officer of Customs authorized to receive the same.

Each boat-note for goods to be shipped shall be signed by the proper officer of Customs, and if an officer of Customs is on board of the vessel on which such goods are to be shipped, shall be delivered to such officer. If no such officer be on board, every such boat-note shall be delivered to the Master of the vessel, or to an officer of the vessel appointed by him to receive it.

The officer of Customs who receives any boat-note of goods landed, and the officer of Customs, Master, or other officer, as the case may be, who receives any boat-note of goods shipped, shall sign the same and note thereon such particulars as the Chief Customs-Authority may, from time to time, direct. The Local Government may, from time to time, by notification in the local official Gazette, suspend the operation of this section in any Customs-port or part thereof.

Goods water-borne to be forthwith landed or shipped

**77.** All goods water-borne for the purpose of being landed or shipped shall be landed or shipped without any unnecessary delay.

**78.** Except in cases of imminent danger, no goods discharged into or loaded in any boat for the purpose of being landed or shipped shall be transhipped into any other boat without the permission of an officer of Customs.

Such goods not to be transhipped without permission

**79.** The Local Government may declare with regard to any Customs-port, by notification in the local official Gazette, that after a date therein specified, no boat not duly licensed and registered shall be allowed to ply as a cargo-boat for the landing and shipping of merchandize within the limits of such port.

Power to prohibit plying of unlicensed cargo-boats.

In any port with regard to which such notification has been issued, the Chief Officer of Customs or other officer whom the Local Government appoints in this behalf, may, subject to such rules and on payment of such fees as the Local Government from time to time prescribes by notification in the local official Gazette, issue licenses for, and register, cargo-boats. Such officer may also, subject to rules so prescribed, cancel any license so issued.

Issue of licenses and registration of cargo-boats

**80.** The Customs-collector may, whenever he thinks fit, require that goods stowed in bulk, and brought by sea or intended for exportation, shall be weighed or measured on board ship before landing or after shipment, and may levy duty according to the result of such weighing or measurement.

Power to require goods to be weighed or measured on board before landing or after shipment.

## CHAPTER IX.

### OF DISCHARGE OF CARGO AND ENTRY INWARDS OF GOODS.

81. When an order for entry inwards of any vessel which has arrived

Discharge of cargo may commence on receipt of due permission.

in any Customs-port, or a special pass permitting such vessel to break bulk, has been given, the discharge of the cargo of such vessel may be proceeded with.

82. Except as otherwise provided in this Act, no goods shall be allowed

Goods not to leave ship unless entered in manifest or supplementary manifest received under Section 55.

to leave any such vessel, unless they are entered in the original manifest of such vessel, or in an amended

83. If the owner of any goods (except such as have been shown in the

Procedure in respect of goods not landed within time allowed.

import manifest as not to be landed) does not land such goods within such period as is specified in the bill of lading of such goods, or if no period is so specified within such number of working days, not exceeding fifteen, after the entry of the vessel importing the same, as the Local Government from time to time appoints by notification in the official Gazette, or if the cargo of any vessel, with the exception of only a small quantity of goods has been discharged previously to the expiration of the period so specified, or appointed, as the case may be,—the Master of such vessel or, on his application, the proper officer of Customs, may then carry such goods to the Custom-house, there to remain for entry. The Customs-collector shall thereupon take charge of and grant receipts for such goods; and if notice in writing has been given by the Master that the goods are to remain subject to a lien for freight, primage, general average, or other charges of a stated amount, the Customs-collector shall hold such goods until he receives notice in writing that the said charges are paid.

84. At any time after the arrival of any vessel, the Customs-collector

Power to land small parcels.

may, with the consent of the Master of such vessel, cause any small package or parcel of goods to be carried to the Custom-house, there to remain for entry, in charge of the officers of Customs, during the remainder of the working days allowed under this Act for the landing of such package or parcel.

If any package or parcel so carried to the Custom-house remains un-

Notice regarding unclaimed packages.

claimed on the expiration of the number of working days so allowed for its landing, or at the time of the clearance outwards of the vessel from which it was landed, the Master may give such notice as is provided in Section 83, and the officer in charge of the Custom-house shall thereupon hold such package or parcel as provided in that section.

85. Notwithstanding anything contained in Sections 83 and 84, the

Power to permit immediate discharge

Customs-collector in any Customs-port to which the Local Government, by notification in the local official Gazette, declares this section to be applicable, may permit the Master of any vessel immediately on receipt of an order under Section 57 or special pass under Section 59, to discharge the cargo of such vessel or any portion thereof into the custody of the ship's agents if willing to receive the same, for the purpose of landing the same forthwith—

at the Custom-house or any specified landing-place or wharf; or

(b) at any landing place or wharf belonging to any Port Commissioners, Port Trust, or other public body or Company.

Any ship's agent so receiving such cargo or portion shall be bound to discharge all claims for damage or short delivery which may be established in respect of the same by the owner thereof, and shall be entitled to recover from such owner his charges for service rendered, but not for commission or the like, where any agent for the landing of such cargo or portion has been previously appointed by the owner and such appointment is unrevoked. The Customs-collector shall take charge of all goods discharged under clause (a) of this section, and otherwise proceed in relation thereto as provided in Sections 83 and 88. A public body or company at whose landing place or wharf any goods are discharged under clause (b) of this section, shall not permit the same to be removed without an order in writing from the Customs-collector.

86. The owner of any goods imported shall, on the landing thereof from the importing ship, make entry of such goods for home-consumption or warehousing by delivering to the Customs-collector a bill of entry thereof in duplicate, in such form and containing such particulars, in addition to the particulars specified in Section 29, as may, from time to time, be prescribed by the Chief Customs-Authority.

The particulars of such entry shall correspond with the particulars given of the same goods in the manifest of the ship.

87. On the delivery of such bill the duty (if any) leviable on such goods shall be assessed, and the owner of such goods may then proceed to clear the same for home-consumption, or warehouse them, subject to the provisions hereinafter contained.

88. If any goods are not entered and cleared for home-consumption, or warehoused, within four months from the date of entry of the vessel, such goods may, after due notice to the owner, if his address can be ascertained, and in the local official Gazette, be sold by public auction, and the proceeds thereof shall be applied, first, to the payment of freight, primage, and general average, if the goods are held by the Customs-collector subject to such charges under notice given under Section 83, 84 or 85; next, to the payment of the duties which would be leviable on such goods if they were then cleared for home-consumption, and next to the payment of the other charges (if any) payable to the Customs-collector in respect of the same.

The surplus, if any, shall be paid to the owner of the goods, on his application for the same; provided that such application be made within one year from the sale of the goods, or that sufficient cause be shown for not making it within such period.

If any goods of which the Customs-collector has taken charge under Section 83, 84, or 85 be of a perishable nature, the Customs-collector may at any time direct the sale thereof, and shall pay the proceeds in like manner:

Provided that, where any goods liable to be sold under this section are arms, ammunition, or military stores, they may be sold or otherwise disposed of at such place (whether within or without British India) and in such manner, as the Local Government may from time to time direct:

Provided also, that nothing in this section shall authorize the removal for home-consumption of any dutiable goods without payment of duties of Customs thereon.

## CHAPTER X.

### OF CLEARANCE OF GOODS FOR HOME CONSUMPTION.

**59.** When the owner of any goods entered for home-consumption, and Clearance for home-con- (if such goods be liable to duty) assessed under Sec- sumption tion 87, has paid the import-duty (if any) assessed on such goods and any charges payable under this Act in respect of the same, the Customs-officer may make an order clearing the same; and such order shall be sufficient authority for the removal of such goods by the owner.

## CHAPTER XI.

### WAREHOUSING.

#### *Of the admission of goods into a warehouse.*

**90.** When any dutiable goods have been entered for warehousing and assessed under Section 87, the owner of such goods Application to warehouse may apply for leave to deposit the same in any warehouse appointed or licensed under this Act.

**91.** Every such application shall be in writing signed by the applicant, and shall be in such form as is from time to time Form of application prescribed by the Chief Customs-Authority.

**92.** When any such application has been made in respect of any goods, the owner of the goods to which it relates Warehousing bond. shall execute a bond, binding himself in a penalty of twice the amount of duty assessed under Section 87 on such goods,

(a) to observe all rules prescribed by this Act in respect of such goods;

(b) to pay, on demand, all duties, rent, and charges claimable on account of such goods under this Act, together with interest on the same from the date of demand, at such rate not exceeding six per cent. per annum, as is for the time being fixed by the Chief Customs-Authority; and

(c) to discharge all penalties incurred for violation of the provisions of this Act in respect of such goods.

Every such bond shall be in the form marked A hereto annexed, or, when such form is inapplicable or insufficient in such other form as is from time to time prescribed by the Chief Customs-Authority, Form of bond.

and shall relate to the cargo or portion of the cargo of one vessel only.

**93.** When the provisions of Sections 91 and 92 have been complied with in respect of any goods, such goods shall be Forwarding of goods to warehouse. forwarded in charge of an officer of Customs to the warehouse in which they are to be deposited.

A pass shall be sent with the goods specifying the name of the importing vessel and of the bonder, the marks, numbers, and contents of each package, and the warehouse or place in the warehouse wherein they are to be deposited.



**94.** On receipt of the goods, the pass shall be examined by the warehouse-keeper, and shall be returned to the Customs-collector. No package, butt, cask, or hogshead shall be admitted into any warehouse unless it bear the marks and numbers specified in, and otherwise correspond with, the pass for its admission. If the goods be found to correspond with the pass, the warehouse-keeper shall certify to that effect on the pass, and the warehousing of such goods shall be deemed to have been completed. If the goods do not so correspond, the fact shall be reported by the warehouse-keeper for the orders of the Customs-collector, and the goods shall either be returned to the Custom-house in charge of an officer of Customs, or kept in deposit pending such orders, as the warehouse-keeper deems most convenient. If the quantity or value of any goods has been erroneously stated in the bill-of-entry, the error may be rectified at any time before the warehousing of the goods is completed, and not subsequently.

**95.** Except as provided in Section 100, all goods shall be warehoused in the packages, butts, casks, or hogsheads, in which they have been imported.

**96.** Whenever any goods are lodged in a public warehouse or a licensed private warehouse, the warehouse-keeper, or, in the case of the Bengal Bonded Warehouse Association, the Secretary of the said Association, shall deliver a warrant signed by him as such to the person lodging the goods. Such warrant shall be in the form B hereto annexed, and shall be transferable by endorsement; and the endorsee shall be entitled to receive the goods specified in such warrant on the same terms as those on which the person who originally lodged the goods would have been entitled to receive the same. The Local Government may, by notification in the local official Gazette, exempt salt and salted fish from the operation of this section, and may in like manner cancel such exemption.

*Rules relating to goods in a warehouse.*

**97.** The Customs-collector, or any officer deputed by him for the purpose, shall have access to any private warehouse licensed under this Act.

**98.** The Customs-collector may at any time by order in writing direct that any goods or packages lodged in any warehouse shall be opened, weighed, or otherwise examined; and after any goods have been so opened or examined, may cause the same to be sealed or marked in such manner as he thinks fit.

When any goods have been so sealed and marked after examination, they shall not be again opened without the permission of the Customs-collector; and when any such goods have been opened with such permission, the packages shall, if he thinks fit, be again sealed or marked as before.

**99.** Any owner of goods lodged in a warehouse shall, at any time within the hours of business, have access to his goods in presence of an officer of Customs, and an officer of Customs shall, upon application for the purpose being made in writing to the Customs-collector, be deputed to accompany such owner.

When an officer of Customs is specially employed to accompany such owner, a sum sufficient to meet the expense thereby incurred shall, if the Customs-collector so require, be paid by such owner to the Customs-collector, and such sum shall, if the Customs-collector so direct, be paid in advance.

100. With the sanction of the Customs-collector, and after such notice given, and under such rules and conditions as the Chief Customs-Authority from time to time prescribes, any owner of goods may, either before or after warehousing the same,

Owner's power to deal with warehoused goods.

(a) sort, separate, pack, and repack the goods, and make such alterations therein as may be necessary for the preservation, sale, shipment, or disposal thereof (such goods to be repacked in the packages in which they were imported, or in such other packages as the Customs-collector permits);

(b) fill up any casks of wine, spirit, or beer from any casks of the same secured in the same warehouse;

(c) mix any wines or spirit of the same sort secured in the same warehouse, erasing from the cask all import-brands, unless the whole of the wine or spirit so mixed be of the same brand;

(d) bottle off wine or spirit from any casks;

(e) take such samples of goods as may be allowed by the Customs-collector with or without entry for home-consumption, and with or without payment of duty, except such as may eventually become payable on a deficiency of the original quantity.

After any such goods have been so separated and repacked in proper or approved packages, the Customs-collector may, at the request of the owner of such goods, cause or permit any refuse, damaged, or surplus goods remaining after such separation or repacking (or, at the like request, any goods which may not be worth the duty) to be destroyed, and may remit the duty payable thereon.

101. If goods be lodged in a public warehouse, the owner shall pay monthly, on receiving a bill or written demand for the same from the Customs-collector or other officer deputed by him in that behalf, rent and warehouse-dues at such rates as the Chief Customs-Authority or such officer of Customs as such Authority from time to time appoints in this behalf may fix. A table of the rates of rent and warehouse-dues so fixed shall be placed in a conspicuous part of such warehouse.

If any bill for rent or warehouse-dues presented under this section is not discharged within ten days from the date of presentation, the Customs-collector may, in the discharge of such demand (any transfer or assignment of the goods notwithstanding) cause to be sold by public auction, after due notice in the local official Gazette, such sufficient portion of the goods as he may select.

Out of the proceeds of such sale, the Customs-collector shall first satisfy the demand for the discharge of which the sale was ordered, and shall then pay over the surplus (if any) to the owner of the goods:

Provided that the application for such surplus be made within one year from the date of the sale of the goods, or that sufficient cause be shown for not making it within such period.

Goods not be taken out of warehouse, except as provided by this Act.

102. No warehoused goods shall be taken out of any warehouse, except on clearance for home-consumption or shipment, or for removal to another warehouse, or as otherwise provided by this Act.

103. Any goods warehoused may be left in the warehouse in which they are deposited, or in any warehouse to which they may in manner hereinafter provided be removed, till the expiry of three years after the date of the bond executed in relation to such goods under Section 92. The owner of any goods remaining in a warehouse on the expiry of such period shall clear the same for home-consumption or shipment in manner hereinafter provided :

Provided that when the license for any private warehouse is cancelled, and the Customs-collector gives notice of such cancellation to the owner of any goods deposited in such warehouse, such owner shall in manner hereinafter provided, and within seven days from the date on which such notice is given, remove such goods to another warehouse or clear them for home-consumption or shipment.

*Of the removal of goods from one warehouse to another.*

104. Any owner of goods warehoused under this Act may, at any time within three years from the date of the bond executed in respect of such goods under Section 92, and with the permission of the Chief Customs-Officer, and on such conditions and after giving such security (if any) as such officer directs, remove goods from one warehouse to another warehouse in the same port.

When any owner desires so to remove any goods, he shall apply for permission to do so in such form as the Chief Customs-Authority from time to time prescribes.

105. Any owner of goods warehoused at any warehousing port may from time to time, within the said period of three years, remove the same by sea or by inland carriage, in order to be re-warehoused at any other warehousing port.

When any owner desires so to remove any goods for such purpose, he shall apply to the Chief Customs-Officer, stating the particulars of the goods to be removed, and the name of the port to which it is intended that they shall be removed, together with such other particulars, and in such manner and form, as the Chief Customs-Authority from time to time prescribes.

106. When permission is granted for the removal of any goods from one warehousing port to another under Section 105, an account containing the particulars thereof shall be transmitted by the proper officer of the port of removal to the proper officer of the port of destination :

and the person requiring the removal shall before such removal enter into a bond, with one sufficient surety, in a sum equal at least to the duty chargeable on such goods for the due arrival and re-warehousing thereof at the port of destination within such time as the Chief Customs-Authority directs.

Such bond may be taken by the proper officer, either at the port of removal or at the port of destination, as best suits the convenience of the owner.

If such bond is taken at the port of destination, a certificate thereof, signed by the proper officer of such port, shall, at the time of the removal of such goods, be produced to the proper officer at the port of removal, and such bond shall not be discharged unless such goods are produced to the proper officer, and duly re-warehoused at the port of destination within the time allowed for such removal or are otherwise accounted for to the satisfaction of such officer; nor until the full duty due upon any deficiency of such goods, not so accounted for, has been paid.

**107.** The Chief Customs-Authority may permit any person desirous of removing warehoused goods to enter into a general bond, with such sureties, in such amount, and under such conditions as the Chief Customs-Authority approves, for the removal, from time to time, of any goods from one warehouse to another, either in the same or in a different port, and for the due arrival and re-warehousing of such goods at the port of destination within such time as such Authority directs.

**108.** Upon the arrival of warehoused goods at the port of destination, they shall be entered and warehoused in like manner as goods are entered and warehoused on the first importation thereof, and under the laws and rules, in so far as such laws and rules are applicable, which regulate the entry and warehousing of such last-mentioned goods.

**109.** Every bond executed under Section 92 in respect of any goods shall, unless the Chief Officer of Customs in any case deems a fresh bond to be necessary, continue in force, notwithstanding the consequent removal of such goods to another warehouse or warehousing port.

*Clearance for home-consumption or shipment.*

**110.** Any owner of goods warehoused may, at any time within three years from the date of the bond executed under Section 92 in respect of such goods, clear such goods for home-consumption by paying

(a) the duty assessed on such goods under Section 87, or where the duty on such goods is altered under the provisions hereinafter contained, such altered duty; and

(b) all rent, penalties, interest, and other charges payable to the Customs-collector in respect of such goods.

**111.** Any owner of goods warehoused may, at any time within three years from the date of the bond executed under Section 92 in respect of such goods, clear such goods for shipment to a foreign port on payment of all rent, penalties, interest, and other charges payable as aforesaid and without payment of import duty on the same:

Provided that the Governor-General in Council may prohibit the shipment for exportation to any specified foreign port of warehoused goods in respect of which payment of drawback or transhipment has been prohibited under Section 40 or 184 respectively.

112. Provisions and stores warehoused at the time of importation may, within the said period of three years, be shipped without payment of duty for use on board of any vessel proceeding to a foreign port.

113. Application to clear goods from any warehouse for home-consumption or for shipment shall, be made in such form as the Chief Customs Authority from time to time prescribes. Such application shall ordinarily be made to the Customs-collector at least twenty-four hours before it is intended so to clear such goods.

114. If any goods upon which duties are leviable *ad valorem*, or on a tariff-valuation receive damage through unavoidable accident after they have been entered for warehousing and assessed under Section 87, and before they are cleared for home-consumption, they shall, if the owner so desires, be re-assessed for duty according to their actual value, and a new bond for the same may, at the option of the owner, be executed for the unexpired term of warehousing.

115. If after any goods entered for warehousing have been assessed under Section 87, any alteration is made in the duty leviable upon such goods or in the tariff-valuation (if any) applicable thereto, such goods shall be re-assessed in accordance with the second proviso to Section 37.

116. If it appear at the time of clearing any wine, spirit, beer, or salt from any warehouse for home-consumption that there exists a deficiency not otherwise accounted for to the satisfaction of the Customs-collector, an allowance on account of ullage and wastage shall be made in adjusting the duties thereon, as follows (namely) :—

(a) upon wine, spirit, and beer in cask to an extent not exceeding the rates specified below, or such other rates as may from time to time be prescribed in this behalf by the Local Government and notified in the official Gazette :

For any time not exceeding	6 months	...	2½ per cent.
Exceeding 6 months and not exceeding	12	"	5 "
Exceeding 12 months and not exceeding	18	"	7½ "
Exceeding 18 months and not exceeding	2 years	...	10 "
Exceeding 2 years and not exceeding	3	"	12 "

(b) in the case of salt warehoused in a public warehouse, only the amount actually cleared shall be charged with Customs-duties ;

(c) in the case of salt warehoused in a private warehouse, wastage shall be allowed at such rate as may be prescribed from time to time by the Local Government and notified in the local official Gazette.

117. When any wine, spirit, beer, or salt lodged in a warehouse is found to be deficient at the time of the delivery therefrom, and such deficiency is proved to be due solely to ullage or wastage, the Chief Customs Authority may direct, in respect of any such article, that allowance be made in any special case for a rate of ullage or wastage exceeding that contemplated in Section 116.

## Of the signature and discharge of the bond.

## 118.

When goods are improperly removed from warehouses or allowed to remain beyond time fixed, or lost or destroyed, or taken as samples, Collector to demand duty, &c.

If any warehoused goods are removed from the warehouse in contravention of Section 102; or if any such goods have not been removed from the warehouse at the expiration of the time during which such goods are permitted by Section 103 to remain in such warehouse; or if any goods in respect of which a bond has been executed under Section 92 and which have not been cleared for home consumption, or shipment, or removed under this Act, are lost or destroyed otherwise than as provided in Section 100 or as mentioned in Section 122, or are not accounted for to the satisfaction of the Customs collector; or if any such goods have been taken under Section 100 as samples without payment of duty, the Customs collector may thereupon demand, and the owner of such goods shall forthwith pay, the full amount of duty chargeable on account of such goods, together with all rent, penalties, interest, and other charges payable to the Customs collector on account of the same.

## 119.

If any owner fails to pay any sum so demanded, the Customs collector may forthwith either proceed upon the bond executed under Section 92, or cause such portion as he thinks fit of the goods (if any) in the warehouse on account of which the amount is due, to be detained with a view to the recovery of the demand; and if the demand be not discharged within ten days from the date of such detention (due notice thereof being given to the owner), the goods so detained may be sold by public auction duly advertised in the local official Gazette.

The net proceeds of any sale so made of goods so detained shall be written off upon the bond in discharge thereof to the amount received, and if any surplus be obtained from such sale, beyond the amount of the demand, such surplus shall be paid to the owner of the goods: Provided that application for the same be made within one year from the sale, or that sufficient cause be shown for not making the application within such period. No transfer or assignment of the goods shall prevent the Customs collector from proceeding against such goods in the manner above provided, for any amount due thereon.

## Noting removal of goods

120. When any warehoused goods are taken out of any warehouse, the Customs collector shall cause the fact to be noted on the back of the bond.

Every note so made shall specify the quantity and description of such goods, the purposes for which they have been removed, the date of removal, the name of the person removing them, the number and date of the shipping-bill under which they have been taken away if removed for exportation by sea, or of the bill-of-entry if removed for home-consumption, and the amount of duty paid (if any).

## 121.

A register shall be kept of all bonds entered into for Customs duties on warehoused goods, and entry shall be made in such register of all particulars required by Section 120 to be specified.

## Register of bonds.

When such register shows that the whole of the goods covered by any bond have been cleared for home-consumption or shipment, or otherwise duly accounted for, and the amounts due on account of such goods have been paid, the Customs-

## Cancellation and return

collector shall cancel such bond as discharged in full, and shall on demand deliver it, so cancelled, to the person who has executed or who is entitled to receive it.

*Miscellaneous.*

122. If any goods in respect of which a bond has been executed under Section 92, and which have not been cleared for home consumption, are lost or destroyed by unavoidable accident or delay, the Chief Customs-Authority may in its discretion remit the duties due thereon :

Provided that, if any such goods be so lost or destroyed in a private warehouse, notice thereof be given to the Customs-collector within forty-eight hours after the discovery of such loss or destruction.

123. The warehouse-keeper in respect of goods lodged in a public warehouse, and the licensee in respect of goods lodged in a private warehouse, shall be responsible for their due reception therein and delivery therefrom, and for their safe custody while deposited therein according to the quantity, weight, or gauge reported by the Customs-house officer who has assessed such goods, allowance being made, if necessary, for ullage and wastage as provided in Sections 116 and 117 :

Provided that no owner of goods shall be entitled to claim from the Customs-collector, or from any keeper of a public warehouse, compensation for any loss or damage occurring to such goods while they are being passed into or out of such warehouse, or while they remain therein, unless it be proved that such loss or damage was occasioned by the wilful act or neglect of the warehouse-keeper or of an officer of Customs.

124. Every public warehouse shall be under the lock and key of a warehouse-keeper appointed by the Chief Officer of Customs.

125. The Chief Customs-Authority, or such officer of Customs as such Authority from time to time appoints in this behalf, may from time to time determine in what division of any public warehouse, and in what manner, and on what terms, any goods may be deposited, and what sort of goods may be deposited in any such warehouse.

126. The expenses of carriage, packing, and stowage of goods on their reception into or removal from a public warehouse shall, if paid by the Customs-collector or by the warehouse-keeper, be chargeable on the goods, and be defrayed by, and recoverable from, the owner, in the manner provided in Section 119.

127. All the provisions of this Act, relating to private warehouses, shall be applicable to the warehouses wherein the Bengal Bonded Warehouse Association receives bonded goods.

## CHAPTER XII.

## TRANSHIPMENT.

**128.** In the Ports of Calcutta, Madras, Bombay, Karwar, Karachi, Aden, Rangoon, Maulmain, Akyab, Chittagong, and such other ports as the Governor-General in Council may from time to time, by notification in the *Gazette of India*, direct in this behalf, the Customs-collector may on application by the owner of any goods imported into such port, and specially and distinctly manifested at the time of importation as for transhipment to some other Customs or foreign port, grant leave to tranship the same without payment of the duty (if any) leviable at the port of transhipment, and without any security or bond for the due arrival and entry of the goods at the port of destination.

In any Customs-port other than a port in which the preceding clause may for the time being be in force, the Customs-collector may on application by the owner of any goods so imported and manifested, grant leave for transhipment without payment of the duty (if any) leviable at such port, provided that where the goods so transhipped are dutiable, and are to be removed to some other Customs-port, the applicant shall enter into a bond, with such security as may be required of him, in a sum equal at least to the duty chargeable on such goods, for the due arrival and entry thereof at the port of destination within such time as such Customs-collector directs.

Superintendence of transhipment.

**129.** An officer of Customs shall, in every case, be deputed free of charge to superintend the removal of transhipped goods from vessel to vessel.

**130.** The powers conferred on the Customs-collector by Section 128 shall be exercised, and the transhipment shall be performed, subject to such rules as may from time to time be made by the Local Government.

No rules made under this section shall come into force until after the expiry of such reasonable time from the date of the publication of the same as the Local Government may in each case appoint in this behalf.

**131.** All goods transhipped under the second clause of Section 128 for removal to a Customs-port shall, on their arrival at such port, be entered in like manner as goods are entered on the first importation thereof, and under the laws and rules, in so far as such laws and rules can be made applicable, which regulate the entry of such last-mentioned goods.

**132.** If two or more vessels belonging wholly or in part to the same owner be at any Customs-port at the same time, any provisions and stores in use or ordinarily shipped for use on board may, at the discretion of the Customs-collector, be transhipped from one such vessel to any other such vessel without payment of import-duty.

**133.** A transhipment-fee on any goods or class of goods, transhipped under this Act, may be levied at such rates on each bale or package, or according to weight, measurement, quantity, or number, and under such rules, as the Local Government with the previous sanction of the Governor-General in Council, may from time to time, by notification in the local official *Gazette* prescribe for each port.



**134.** The Governor-General in Council may from time to time, by notification in the *Gazette of India*, prohibit, at any specified port, or at all ports, the transshipment of any specified class of goods, generally or when destined for any specified ports, or prescribe any special mode of transshipping any specified class of goods.

**NOTE.**—In exercise of the power conferred by Section 134 of the Sea Customs Act, 1878, the Governor-General in Council is pleased to prohibit the transshipment, under the provisions of Chapter XII of the said Act, at the Ports of Bombay and Karachi, for conveyance to any Customs Port, of petroleum which, under Act II of 1883 is liable to customs duty, unless and until Customs duty has been paid upon such petroleum at either of the said Ports of Bombay or Karachi. (*Government of India No 2276, dated the 2nd May 1888, Gazette of India of 5th idem, Part I, p 208*).

No goods to be transhipped except as provided

**135.** Except as provided in this Act, no goods shall be transhipped at any port or place in British India.

## CHAPTER XIII.

### EXPORTATION OR SHIPMENT, AND RE-LANDING.

**136.** Except with the written permission of the Customs-collector, no goods other than passengers' baggage, or ballast urgently required for a vessel's safety, shall be shipped or water-borne to be shipped in any vessel in a Customs-port, until an order has been obtained under Section 61 for entry outwards of such vessel.

When such order has been obtained, the export cargo of such vessel may be shipped, subject to the provisions next hereinafter contained.

**137.** Unless the Chief Customs-Authority shall, in the case of any Customs-port or wharf, or of any class of goods, otherwise direct by notification in the local official Gazette, no goods, except passengers' baggage, shall be shipped or water-borne to be shipped for exportation, until—

(a) the owner has delivered to the Customs-collector, or other proper officer, a shipping-bill of such goods in duplicate, in such form and containing such particulars in addition to those specified in Section 29 as may from time to time be prescribed by the Chief Customs-Authority ;

(b) such owner has paid the duties (if any) payable on such goods : and

(c) such bill has been passed by the Customs-collector.

**138.** Before any warehoused goods, or goods subject to excise-duties, or goods entitled to drawback of Customs-duties on exportation, or goods exportable only under particular rules or restrictions, are permitted to be exported, the owner shall, if required so to do, give security by bond in such sum, not exceeding twice the duty leviable on such goods, as the Customs-collector directs, with one sufficient surety, that such goods shall be duly shipped, exported, and landed at the place for which they are entered outwards, or shall be otherwise accounted for to the satisfaction of such officer.

**139.** When goods are cleared for shipment on a shipping-bill presented after port-clearance has been granted, the Customs-collector may, if he thinks fit, levy, in addition to the duty to which such goods are ordinarily liable, a charge not exceeding—

(a) in the case of goods liable to duties on fixed tariff-valuations, one per cent. on the tariff value

(b) in the case of all other goods, one per cent. on the market value.

Nothing in this section shall apply to any shipment of treasure or opium.

**140.** If any goods mentioned in a shipping-bill or manifest be not shipped, or be shipped and afterwards re-landed, the owner shall, before the expiration of five clear working days after the vessel on which such goods were intended to be shipped, or from which they were re-landed, has left the port, give information of such short-shipment or re-landing to the Customs-collector.

Upon an application being made to the Customs-collector, any duty levied upon goods not shipped, or upon goods shipped and afterwards re-landed, shall be refunded to the person on whose behalf such duty was paid :

Provided that no such refund shall be allowed unless information has been given as above required.

**141.** If, after having cleared from any Customs-port, any vessel, without having discharged her cargo, returns to such port, or puts into any other Customs-port, any owner of goods in such vessel, if he desires to land or transship the same or any portion thereof for re-export, may, with the consent of the Master, apply to the Customs-collector in that behalf. The Customs-collector, if he grant the application, shall thereupon send an officer of Customs to watch the vessel, and to take charge of such goods during such re-landing or transshipment. Such goods shall not be allowed to be transhipped or re-exported free of duty by reason of the previous settlement of duty at the time of first export, unless they are lodged and remain, until the time of re-export, under the custody of an officer of Customs, in a place appointed by the Customs-collector, or are transhipped under such custody. All expenses attending such custody shall be borne by the owner.

**142.** In either of the cases mentioned in Section 141, the Master of the vessel may enter such vessel inwards, and any owner of goods therein may, with the consent of the Master, land the same under the rules herein contained for the importation of goods. In every such case, any export-duty levied shall be refunded to, and any amount paid in drawback shall be recovered from, such owner.

**143.** The Customs-collector may, on application by the Master of any vessel which is obliged before completing her voyage to put into any Customs-port for repairs, permit him to land the cargo, or any portion thereof, and to place it in the custody of an officer of Customs during such repairs, and to re-ship and export the same free of duty. All expenses attending such custody shall be borne by the Master.

## CHAPTER XIV.

### SPIRIT.

#### *Exportation of spirit under bond for excise-duty.*

**144.** The Chief Customs-Authority may from time to time make rules prescribing the conditions on which spirit manufactured in British India may be removed from any licensed distillery for exportation without payment of excise-duty.

Rules for removal of spirit from distillery without payment of duty for exportation.

The person so removing any such spirit shall execute a bond with one or more sureties in the form marked C hereto annexed, or (when such form is inapplicable or insufficient) in such other form as the said Authority from time to time prescribes, conditioned that such duty shall be paid on all such spirit as is

(a) not exported within four months from the date of the bond, or

(b) exported to a Customs-port, unless either the payment of excise-duty as provided by this chapter in respect thereof at the port of destination, or the delivery of the spirit into a warehouse appointed in this behalf by the Local Government having authority at that port, is within six months from the date of the bond proved to the satisfaction of the proper officer.

The Chief Officer of Customs of the port of exportation may, on sufficient cause shown, extend for a further term not exceeding four months the period allowed for the exportation of any such spirit, or for the production of such proof that duty has been so paid, or the spirit so delivered.

NOTE.—As amended by Act II of 1887, Section 1.

145. Spirit intended for exportation under bond for the excise-duty shall, except when provision is made by any enactment for the time being in force for its being Spirit for export to be taken direct from distillery to Custom-house under pass immediately deposited in a licensed warehouse, be taken from the distillery direct to the Custom-house, under passes to be granted for that purpose by the officers of excise.

NOTE.—As amended by Act IX of 1885, Section 5.

146. Spirit brought to the Custom-house for exportation under bond Gauging and proving of spirit. for the excise-duty may, previous to shipment, be gauged and proved by an officer of Customs; and the quantity of spirit for which credit is to be given in the settlement of any bond may be determined in the same manner.

NOTE.—As amended by Act II of 1887, Section 2

147. Excise-duty shall be recoverable previously to shipment upon the excess (if any) of the quantity of spirit passed from a distillery over the quantity ascertained by gauge and proof at the Custom-house, less an allowance for ullage and wastage at such rates as are from time to time prescribed by the Local Government and notified in the local official Gazette. Duty to be recovered on any deficiency in spirit under bond

148. Notwithstanding anything in the Indian Tariff Act, 1882, spirit exported under bond for excise duty from any Customs-port to any other Customs-port, shall be charged at the port of importation with excise-duty at the ordinary rate to which spirit of the like kind and strength is liable at such port. Duty on spirit exported under bond from one Indian port to another

Provided that the Local Government may authorise the import of such spirit without the payment of that duty at the port of importation; when the spirit is to be delivered into a warehouse appointed by the Local Government in this behalf, and the excise-duty thereon is to be paid on the removal of the spirit from a warehouse so appointed.

NOTE.—As amended by Act II of 1887, Section 2.

**149. Spirit brought to the Custom-house, or to a warehouse licensed**

**Removal for local consumption of spirit intended for exportation.**

under any enactment for the time being in force, for exportation under bond for the excise-duty may, on payment of such duty, be removed for local consumption under passes to be granted for that purpose by the officers of excise. Credit for every such payment shall be given in discharge of the bond to which it relates.

**NOTE**—As amended by Act IX of 1885, Section 5

*Drawback of excise-duty on export of spirit.*

**150. A drawback of excise-duty paid on spirit manufactured in**

**Drawback of excise-duty on spirit exported**

British India and exported to any foreign port under the provisions of Section 138, shall be allowed by the Customs-collector at the port of exportation :

Provided that the exportation be made within one year from the date of payment of such excise-duty, and that the spirit, when brought to the Custom-house, be accompanied by a pass in which such payment is certified.

Such drawback shall be regulated by the strength and quantity of such spirit as ascertained by gauge and proof by an officer of Customs.

*Miscellaneous.*

**151. Notwithstanding anything in the Indian Tariff Act, 1882, if**

**Differential duty to be levied in certain cases.**

spirit manufactured in British India upon which excise-duty has been paid is exported from one Customs-port to another, and the rate of local excise-duty at the port of importation is higher than that already paid upon such spirit, a differential duty shall be charged thereupon, at such rate as the Local Government at such port may by notification in the local official Gazette from time to time prescribe.

Provided that the Local Government may authorise the import of such spirit without the payment of the differential duty at the port of importation, when the spirit is to be delivered into a warehouse appointed by the Local Government in this behalf, and the differential duty is to be paid on the removal of the spirit from a warehouse so appointed.

**NOTE**—As amended by Act II of 1887, Section 4

**152. Rum-shrub, cordial and other such liquor prepared in a licensed**

**Rum-shrub, &c, how charged with duty**

**Provisions respecting spirit applied to such liquors.**

distillery under the supervision of the surveyor or officer in charge of the distillery, shall be charged with excise-duty under this Act according to the quantity of spirit used in its preparation as ascertained by such surveyor or officer. The provisions of this Act respecting spirit, except such as relate to gauge and proof, shall apply to such liquor.

**153. No drawback shall be allowed for any spirit on which duty has**

**Conditions of drawback and remission of duty on spirit.**

been paid, nor shall the duty due on any spirit under bond be remitted, unless the spirit is shipped from the Custom-house, and in a vessel whereon an officer of Customs has been appointed to superintend the receipt of export-cargo.

**154. No spirit shipped for exportation shall be re-landed without a**

**Re-land of spirit shipped.**

special pass from an officer of excise, in addition to any permission of an officer of Customs which may be required by the law for the time being in force.

155. When by any law for the time being in force a special duty is imposed on spirit rendered unfit for human consumption, the Local Government may from time to time make rules for ascertaining and determining what spirit imported into British India shall be deemed to have been effectually and permanently so rendered unfit, and for causing such spirit to be so rendered, if necessary, by their own officers, and at the expense of the person importing the same, before the Customs-duties leviable thereon are levied. In the absence of any such rules, or if any dispute arises as to their applicability, the Chief Customs-officer shall decide what spirit is subject only to the said special duty, and such decision shall be final.

Decision where no rules, or their applicability disputed.

## CHAPTER XV.

### COASTING-TRADE.

156. Except as hereinafter provided, nothing in Chapters VII, IX, X, and Sections 136, 139, and 141 to 143 inclusive of this Act shall apply to coasting vessels or to goods imported or exported in such vessels.

Chapters VII, IX, X, and part of XIII inapplicable to coasting-trade.

157. The Local Government may, from time to time, make rules consistent with the provisions of this chapter, Power to regulate coasting-trade.

(a) extending any provisions of the chapters and sections mentioned in Section 156, with or without modification, to any coasting-vessels or to any goods imported or exported in such vessels ;

(b) exempting any such vessels or goods from any of the other provisions of this Act except those contained in this chapter ;

(c) prescribing the conditions on which goods, or any specified class of goods, may be (1) carried in a coasting-vessel, whether shipped at a foreign port, or at a Customs-port, or at a place declared under Section 12 to be a port ; (2) shipped in a coasting vessel before all dutiable goods and goods brought in such vessel from a foreign port have been unladen ;

(d) prohibiting the conveyance of any specified class of goods generally, or to, or between specified ports in a coasting-vessel.

158. Before any coasting-vessel departs from the port of lading, or, when there are more ports of lading than one, the first port of lading, the Master shall fill in, sign, and deliver to the Customs-collector a manifest in duplicate containing a true specification of all goods to be carried in such vessel, in such form, and accompanied by such shipping-bills or other documents, as may from time to time be prescribed by the Chief Customs-Authority. If the Customs-collector sees no objection to the departure of the vessel, he shall retain the duplicate and return the original manifest dated and signed by him together with its accompaniments ; and such manifest shall be the port-clearance of the vessel, unless, under the general orders of the Chief Customs-Authority, a separate port-clearance be prescribed.

Coasting-vessels to deliver manifest and obtain port-clearance before leaving port of lading

159. Within twenty-four hours after the arrival of any coasting-vessel at any Customs-port, whether intermediate or final, on arrival, and before any goods are there discharged, the manifest, together with the other documents referred to in Section 158, shall be delivered to the Customs-collector, who shall note on the manifest the date of delivery.

If the vessel has touched at any foreign port between such port of arrival and her last preceding Customs-port of departure, the Master shall append to the manifest a declaration to that effect, and shall also indicate on the manifest the portions (if any) of the cargo therein described which have been discharged, and subjoin thereto a true specification of all goods shipped at such port.

If the Customs-port of arrival be an intermediate port, and a portion only of the cargo is to be discharged thereat, the Master shall likewise so deliver an extract from the manifest signed by him, relating to such portion, and the Customs-collector shall, after verifying such extract, return to him the original manifest and all documents accompanying it except those relating to such portion.

If in any case the cargo actually on board any coasting-vessel on her arrival at any Customs-port does not, owing to short-shipment, re-landing, or other cause, correspond with the specification thereof in the manifest returned to the Master under the second clause of Section 158, such Master shall, before delivery of such manifest under this section, note thereon the particulars of the difference.

The Customs-collector, when satisfied with the manifest and other documents, shall grant an order to break bulk.

160. Before any coasting-vessel departs from any Customs-port at which she has touched during her voyage, the Master shall re-deliver the original manifest to the Customs-collector after indicating thereon the portions (if any) of the cargo therein described which have been discharged, and subjoining thereto a true specification of all goods shipped at such port. He shall also deliver a duplicate, signed by him, of the specification so subjoined.

If the Customs-collector sees no objection to the departure of the vessel, he shall proceed as prescribed in the second clause of Section 158.

161. The Customs-collector may, for sufficient reason, refuse port-clearance to any coasting-vessel declared to be bound to, or about to touch at, any Customs-port, unless the owner, or Master gives a bond with such security as the Customs-collector deems sufficient for the production to the Customs-collector of a certificate from the proper officer of the port to which such vessel is said to be bound, of her arrival at such port within a reasonable time to be prescribed in each case by the Customs-collector.

162. When permission has been granted by the Customs-collector for the discharge of cargo from any coasting-vessel—

(a) if the vessel has not touched at any intermediate foreign port in the course of her voyage, and has not on board any dutiable goods, the cargo may be forthwith landed and removed by the owner, without entry thereof at the Custom-house and clearance for home-consumption, but subject to such general check and control as the Chief Customs-Authority may from time to time by rules prescribe;

(b) if the vessel has so touched at any such port, or has on board any such goods, such vessel shall be subject to all the provisions of Chapter VII of this Act relating to vessels arriving and such goods, and until such goods have been duly discharged all other goods on board shall be subject to the provisions of Chapter IX of this Act relating to goods imported.

Goods on coasting vessel, if excisable, not to be unladen without permission.

163. If any of the goods on board of any coasting vessel be subject to any excise duty, they shall not be unladen without the permission of the proper officer of excise.

164. Notwithstanding anything hereinbefore contained, the Chief Customs-Authority may authorize the Customs-collector to grant a general pass, on any conditions which such Authority thinks expedient, for the lading and clearance, and for the entry and unloading, of any coasting steam-vessel at any ports of despatch or destination, or at any intermediate ports at which she touches for the purpose of receiving goods or passengers. Such pass shall be valid throughout British India, or for such ports only as may be specified therein.

Any such general pass may be revoked by order of the Chief Customs Authority by whom the grant thereof was authorized, by notice in writing under the hand of such Authority, delivered to the Master or to the owner of such steam-vessel, or to any of the crew on board.

165. The Chief Customs-Authority may direct that the Master of any coasting-vessel which is square-rigged or propelled by steam shall keep, or cause to be kept, a cargo-book, stating the name of the Master, the vessel, the port to which she belongs, and the port to which on each voyage she is bound.

At every port of lading such Master shall enter, or cause to be entered, in such book the name of such port, and an account of all goods there taken on board of such vessel, with a description of the packages, and the quantities and descriptions of the goods contained therein or stowed loose, and the names of the respective shippers and consignees, in so far as such particulars are known to him.

At every port of discharge of any such goods such Master shall enter, or cause to be entered, in such book the respective days on which such goods or any of them are delivered out of such vessel.

The respective times of departure from every port of lading, and of arrival at every port of discharge, shall in like manner be duly entered.

Every such Master shall, on demand, produce his cargo-book for the inspection of any officer of Customs, and such officer shall be at liberty to make any note or remark therein.

The Chief Customs-Authority may, in the case of any vessel the Master whereof has been directed to keep a cargo-book under this section, dispense with the manifest required under Sections 158, 159, and 160.

166. Any duly empowered officer of Customs may go on board of any vessel to board and examine coasting vessels, and may at any period of a voyage search any such vessel and examine all goods on board, and all goods then lading or unloading, and may demand the production of any document, which ought to be on board of any such vessel.

The Customs-collector may further require that any such document belonging to any coasting vessel then in port shall be brought to him for inspection.

## CHAPTER XVI.

## OFFENCES AND PENALTIES.

167. The offences mentioned in the first column of the following schedule shall be punishable to the extent mentioned in the third column of the same with reference to such offences respectively :

Offences.	Section of this Act to which offence has reference	Penalties.
1.—Contravening any rule made under this Act	General.	Penalty not exceeding five hundred rupees.
2.—If any goods be landed or shipped, or if an attempt be made to land or ship any goods, or if any goods be brought into any bay, river, creek or arm of the sea, for the purpose of being landed or shipped, at any port or place which, at the date of such landing, shipment, attempt, or bringing, is not a port for the landing and shipment of goods,	11	Such goods shall be liable to confiscation.
3.—If any person ship or land goods, or aid in the shipment or landing of goods, or knowingly keep or conceal, or knowingly permit or procure to be kept or concealed, any goods shipped or landed, contrary to the provisions of this Act ; or	General	Such person shall be liable to a penalty not exceeding one thousand rupees
if any person be found to have been on board of any vessel liable to confiscation on account of the commission of an offence under No. 2 of this section, while such vessel is within any bay, river, creek or arm of the sea which is not a port for the landing or shipment of goods,	11	
4.—If any vessel which has been within the limits of any port in British India with cargo on board, be afterwards found in any port, bay, river, creek or arm of the sea in British India, light or in ballast, and if the Master be unable to give a due account of the Customs-port where such vessel lawfully discharged her cargo,	11	Such vessel shall be liable to confiscation.
5.—If any goods are put, without the authority of the proper officer of Customs, on board of any tug-steamor or pilot-vessel from any sea-going vessel inward-bound ; or	11	Such goods shall be liable to confiscation, and the Master of every such tug-steamor or pilot-vessel shall be
if any goods are put, without such authority, out of any tug-steamor or pilot-vessel for the purpose of being put on board of any such vessel outward-bound ; or		liable to a penalty not exceeding one thousand rupees.
if any goods on which drawback has been granted are put, without such authority, on board of any tug-steamor or pilot-vessel for the purpose of being re-landed,		
6.—If any vessel arriving at, or departing from, any Customs-port fails, when so required under Section 17, to bring to at any such station as has been appointed by the Chief Customs-Authority for the boarding or landing of an officer of Customs,	17	The Master of such vessel shall be liable to a penalty not exceeding one thousand rupees.



● OFFENCES AND PENALTIES—*contd.*

Offences.	Section of this Act to which offence has reference.	Penalties.
<p>7.—If any vessel arriving at any Customs-port, after having come to its proper place of mooring or unloading, removes from such place, except with the authority of the Conservator, obtained in accordance with the provisions of the Indian Ports Act, 1875, or other lawful authority, to some other place of mooring or unloading, or if any vessel not brought into port by a Pilot be not anchored or moored in accordance with any direction of the Chief Customs-Authority under Section 17,</p>	<p>...</p> <p>17</p>	<p>The Master of such vessel shall be liable to a penalty not exceeding five hundred rupees, and the vessel, if not entered, shall not be allowed to enter until the penalty is paid.</p>
<p>8.—If any goods, the importation or exportation of which is for the time being prohibited or restricted by or under Chapter IV of this Act, be imported into or exported from British India contrary to such prohibition or restriction ; or if any attempt be made so to import or export any such goods ; or if any such goods be found in any package produced to any officer of Customs as containing no such goods ; or if any such goods, or any dutiable goods be found either before or after landing or shipment to have been concealed in any manner on board of any vessel within the limits of any port in British India ; or if any goods, the exportation of which is prohibited or restricted as aforesaid, be brought to any wharf in order to be put on board of any vessel for exportation contrary to such prohibition or restriction,</p>	<p>18 &amp; 19</p>	<p>Such goods shall be liable to confiscation ; and any person concerned in any such offence shall be liable to a penalty not exceeding three times the value of the goods, or not exceeding one thousand rupees.</p>
<p>9.—If upon an application to pass any goods through the Custom-house, any person not being the owner of such goods, and not having proper and sufficient authority from the owner, subscribes or attests any document relating to any goods on behalf of such owner,</p>	<p>General</p>	<p>Such person shall be liable to a penalty not exceeding one thousand rupees.</p>
<p>10.—If any goods, on the entry of which for re-export drawback has been paid, are not duly exported, or are unshipped or re-landed at any Customs-port (not having been duly re-landed or discharged under the provisions of this Act),</p>	<p>42 &amp; 43</p>	<p>Such goods together with any vessel used in so unshipping or re-landing them, shall be liable to confiscation ; and the Master of the vessel from which such goods are so unshipped or re-landed, and any person by whom or by whose orders or means such goods are so unshipped or re-landed, or who aids or is concerned in such unshipping or re-landing, shall be liable to a penalty not exceeding three times the value of such goods, or not exceeding one thousand rupees.</p>

OFFENCES AND PENALTIES—*contd.*

Offences.	Section of this Act to which offence has reference	Penalties.
11.—If any wine, spirit, provisions, or stores be not laden on board of the vessel on board of which they should, under the provisions of Section 45, 46, 47, or 48 be laden, or be unladen from such vessel without the permission of the proper officer of Customs,	44 to 48	Such wine, spirits, provisions, or stores shall be liable to confiscation.
12.—If any goods be entered for drawback, which are of less value than the amount of the drawback claimed,	50	Such goods shall be liable to confiscation.
13.—If, in any river or port wherein a place has been fixed under Section 53 by the Local Government, any vessel arriving passes beyond such place, before delivery of a manifest to the pilot, officer of Customs, or other person duly authorized to receive the same,	53	The Master of such vessel shall be liable to a penalty not exceeding one thousand rupees.
14.—If the Master of any vessel arriving, which remains outside or below any place so fixed, wilfully omits, for the space of twenty-four hours after anchoring, to deliver a manifest as required by this Act,	53	Such Master shall be liable to a penalty not exceeding one thousand rupees.
15.—If, after any vessel arriving has entered any Customs-port in which a place has not been fixed under Section 53, the Master of such vessel wilfully omits, for the space of twenty-four hours after anchoring, to deliver a manifest as required by this Act,	54	Ditto ditto
16.—If any manifest delivered under Section 53, 54, 60, 63 or 66 is not signed by the person delivering the same, and is not in the form or does not contain the particulars required by Section 55 or 63, as the case may be, in so far as such particulars are applicable to the ship, cargo and voyage; or if any manifest so delivered does not contain a specification true to the best of such person's knowledge of all goods imported or to be exported in such vessel,	55 & 63  "	The person delivering such manifest shall be liable to a penalty not exceeding one thousand rupees
17.—If any goods entered in the import manifest of a vessel are not found on board of the vessel; or if the quantity so found is short, and if such deficiency is not accounted for to the satisfaction of the officer in charge of the Custom-house,	55 & 64	The Master of such vessel shall be liable to a penalty not exceeding twice the amount of duty chargeable on the missing or deficient goods, if they be dutiable and the duty leviable thereon can be ascertained; or otherwise to a penalty not exceeding five hundred rupees for every missing or deficient package or separate article.
18.—If any person required by this Act to receive a manifest from any Master of a vessel, refuses so to do, or fails to countersign the same or to enter thereon the particulars referred to in Section 56,	53, 54 & 56	Such person shall be liable to a penalty not exceeding five hundred rupees.
19.—If bulk be broken in any vessel previous to the grant by the Customs-collector of an order for entry inwards or a special pass permitting bulk to be broken,	57 & 59	The Master of such vessel shall be liable to a penalty not exceeding one thousand rupees.

OFFENCES AND PENALTIES—*contd.*

Offences	Section of this Act to which offence has reference	Penalties.
<p>20.—If any bill of lading or copy required under Section 58 is false and the Master is unable to satisfy the Customs-collector that he was not aware of the fact; or if any such bill or copy has been altered with fraudulent intent; or</p> <p>if the goods mentioned in any such bill or copy have not been <i>bonâ fide</i> shipped as shown therein; or</p> <p>if any such bill of lading, or any bill of lading of which a copy is delivered, has not been made previously to the departure of the vessel from the place where the goods referred to in such bill of lading were shipped; or</p> <p>if any part of the cargo has been staved, destroyed or thrown overboard; or if any package has been opened, and such part of the cargo or such package be not accounted for to the satisfaction of the Custom-collector,</p>	58	The Master of the vessel shall be liable to a penalty not exceeding one thousand rupees.
21.—If any Master of a vessel attempts to depart without a port clearance,	62	Such Master shall be liable to a penalty not exceeding five hundred rupees
22.—If any vessel actually departs without a port-clearance,	62	The Master of such vessel shall be liable to a penalty not exceeding one thousand rupees
23.—If any pilot takes charge of any vessel proceeding to sea, notwithstanding that the Master of such vessel does not produce a port-clearance,	62	Such pilot, on conviction before a Magistrate, shall be liable to fine not exceeding one thousand rupees
24.—If any Master of a vessel refuses to receive on board an officer of Customs deputed under Section 57,	68	Such Master shall be liable to a penalty not exceeding five hundred rupees for each day during which such officer is not received on board; and the vessel if not entered shall not be allowed to enter until such penalty is paid
25.—If any Master of a vessel refuses to receive on board one servant of such officer or to provide such officer and servant with suitable shelter and accommodation, and with a due allowance of fresh water, and with the means of cooking on board,	68	Such Master shall, in each such case, be liable to a penalty not exceeding five hundred rupees.
<p>26.—If any Master of a vessel refuses to allow such vessel, or any box, place, or closed receptacle in such vessel, to be searched when so required by an officer of Customs bearing a written order to search; or</p> <p>if an officer of Customs places any lock, mark or seal upon any goods in a vessel, and such lock, mark, or seal is wilfully opened, altered or broken, before due delivery of such goods; or</p> <p>if any such goods are secretly conveyed away; or</p> <p>if any hatchway or entrance to the hold of a vessel, after having been fastened down by an officer of Customs, is opened without his permission,</p>	69	The Master of such vessel shall be liable, upon conviction before a Magistrate, to a fine not exceeding one thousand rupees

## OFFENCES AND PENALTIES—contd.

Offences.	Section of this Act to which offence has reference.	Penalties.
27.—If the Master of any vessel laid up by the withdrawal of the officer of Customs shall, before application is made by him for an officer of Customs to superintend the receipt of cargo, cause or suffer to be put on board of such vessel any goods whatever, in contravention of Section 70,	70	Such Master shall be liable to a penalty not exceeding one thousand rupees, and the goods, if protected by a pass, shall be liable to be re-landed for examination at the expense of the vessel, and if not protected by a pass, shall be liable to confiscation.
28.—If any Master of a vessel in any case other than that provided for by No. 27 causes or suffers any goods to be discharged, shipped, or water-borne contrary to any of the provisions of Section 70, 72, or 75,	70, 72 & 75	Such Master shall be liable to a penalty not exceeding one thousand rupees; and all goods so discharged, shipped, or water-borne shall be liable to confiscation.
29.—If, when a boat-note is required by Section 76, any goods water-borne for the purpose of being landed from any vessel, and warehoused or passed for importation, or of being shipped for exportation, be found without such note; or if any goods are found on board any boat in excess of such boat-note, whether such goods are intended to be landed from, or to be shipped on board of, any vessel,	76	Such goods shall be liable to confiscation: and the person by whose authority the goods are being landed or shipped, and the person in charge of the boat, shall each be liable to a penalty not exceeding twice the amount of duty (if any) leviable on the said goods.
30.—If any person refuses to receive, or fails to sign, or to note the prescribed particulars upon, any boat-note, as required by Section 76, or if any Master or officer of a vessel receiving the same fails to deliver it when required so to do by any officer of Customs authorized to make such requisition,	76	Such person, Master or officer shall be liable to a penalty not exceeding five hundred rupees.
31.—If any goods are, without permission, shipped or water-borne to be shipped or are landed except from or at a wharf or other place duly appointed for the purpose; or if any goods water-borne for the purpose of being landed or shipped are not landed or shipped without unnecessary delay; or if the boat containing such goods be found out of the proper track between the vessel and the wharf or other proper place of landing or shipping, and such deviation be not accounted for to the satisfaction of the Customs-collector; or if any goods are transhipped contrary to the provisions of Section 78,	73 77 78	Such goods shall be liable to confiscation; and the person by whose authority the goods are shipped, landed, water-borne, or transhipped, and the person in charge of the vessel employed in conveying them, shall each be liable to a penalty not exceeding twice the amount of the duty (if any) leviable on such goods.
32.—If, after the issue of a notification under Section 79 with regard to any port, any goods are found within the limits of such port on board of any boat not duly licensed and registered,	79	Such goods, unless they are covered by a special permit from the Customs-collector, shall be liable to confiscation, and the owner or the person in charge of the boat shall be liable to a penalty not exceeding one hundred rupees.
33.—If any Master of a vessel discharges or suffers to be discharged any goods not duly entered in the manifest of such vessel,	55 & 82	Such Master shall be liable to a penalty not exceeding one thousand rupees.
34.—If any goods are found concealed in any place, box, or closed receptacle in any ves-	General	Such goods shall be liable to confiscation.

## OFFENCES AND PENALTIES—contd.

Offences.	Section of this Act to which offence has reference	Penalties.
<p>sel, and are not duly accounted for to the satisfaction of the officer in charge of the Custom-house,</p>		
<p>35.—If any goods are found on board in excess of those entered in the manifest, or not corresponding with the specification therein contained,</p>	55 & 82	<p>Such goods shall be liable to confiscation, or to be charged with such increased rates of duty as the Chief Officer of Customs directs.</p>
<p>36.—If, after any goods have been landed and before they have been passed through the Custom-house, the owner removes or attempts to remove them, with the intention of defrauding the revenue,</p>	86 & 87	<p>Such goods shall be liable to confiscation ; or if the goods cannot be recovered, the owner shall be liable, in addition to full duty, to a penalty not exceeding twice the amount of such duty, if the goods be dutiable and the duty leviable thereon can be ascertained ; or otherwise to a penalty not exceeding one thousand rupees for every missing or deficient package or separate article.</p>
<p>37.—If it be found, when any goods are entered at, or brought to be passed through, a Custom-house, either for importation or exportation, that</p> <p>(a) the packages in which they are contained differ widely from the description given in the bill of entry or application for passing them ; or</p> <p>(b) the contents thereof have been wrongly described in such bill or application as regards the denominations, characters, or conditions according to which such goods are chargeable with duty, or are being imported or exported ; or</p> <p>(c) the contents of such packages have been mis-stated in regard to sort, quality, quantity or value : or</p> <p>(d) goods not stated in the bill of entry or application have been concealed in, or mixed with, the articles specified therein, or have apparently been packed so as to deceive the officers of Customs, and such circumstance is not accounted for to the satisfaction of the Customs-collector,</p>	86 & 137	<p>Such packages, together with the whole of the goods contained therein, shall be liable to confiscation, and every person concerned in any such offence shall be liable to a penalty not exceeding one thousand rupees.</p>
<p>38.—If any goods are passed by tale or by package, any omission or misdescription thereof leading to injury to the revenue be discovered,</p>	86 & 94	<p>The person guilty of such omission or misdescription shall be liable to a penalty not exceeding ten times the amount of duty which might have been lost to Government by such omission or misdescription, unless it be proved to the satisfaction of the officer in charge of the Customs-house that the variance was accidental.</p>

## OFFENCES AND PENALTIES—contd.

Offences	Section of this Act to which offence has reference.	Penalties.
39.—If, without entry duly made, any goods are taken, or passed out of any Custom-house or wharf,	86	The person so taking or passing such goods shall, in every such case, be liable to a penalty not exceeding five hundred rupees, and such goods shall be liable to confiscation.
40.—If any prohibited or dutiable goods are found, either before or after landing, concealed in any passenger's baggage,	General	Such passenger shall be liable to a penalty not exceeding five hundred rupees, and such goods shall be liable to confiscation.
41.—If any goods entered to be warehoused are carried into the warehouse, unless with the authority, or under the care, of the proper officers of Customs, and in such manner, by such persons, within such time, and by such roads or ways, as such officers direct,	93	Such goods shall be liable to confiscation, and any person so carrying them shall be liable to a penalty not exceeding one thousand rupees.
42.—If any goods entered to be warehoused are not duly warehoused in pursuance of such entry, or are withheld, or removed from any proper place of examination before they have been examined and certified by the proper officer,	94	Such goods shall be deemed not to have been duly warehoused, and shall be liable to confiscation.
43.—If any warehoused goods be not warehoused in accordance with Sections 94 and 95,	94 & 95	Such goods shall be liable to confiscation.
44.—If the licensee of any private warehouse licensed under this Act does not open the same when required so to do by any officer entitled to have access thereto, or, upon demand made by any such officer, refuses access to any such officer,	97	Such licensee shall be liable to a penalty not exceeding one thousand rupees, and shall further be liable to have his license forthwith cancelled.
45.—If the keeper of any public warehouse, or the licensee of any private warehouse, neglects to stow the goods warehoused therein, so that easy access may be had to every package and parcel thereof,	Chap XI.	Such keeper or licensee shall, for every such neglect, be liable to a penalty not exceeding fifty rupees.
46.—If the owner of any warehoused goods, or any person in the employ of such owner, clandestinely opens any warehouse, or, except in presence of the proper officer of Customs, gains access to his goods,	99	Such owner or person shall, in every such case, be liable to a penalty not exceeding one thousand rupees.
47.—If any warehoused goods are opened in contravention of the provisions of Section 98; or If any alteration be made in such goods or in the packing thereof, except as provided in Section 100,	98 & 100	Such goods shall be liable to confiscation.
48.—If any goods lodged in a private warehouse are found at the time of delivery therefrom to be deficient, and such deficiency is not due solely to ullage or wastage, as allowed under Sections 116 and 117,	123	The licensee of such warehouse shall, unless the deficiency be accounted for to the satisfaction of the Customs-collector, be liable to a penalty equal to five times the duty chargeable on the goods so deficient.

## OFFENCES AND PENALTIES—contd.

Offences.	Section of this Act to which offence has reference.	Penalties.
49.—If the keeper of any public warehouse, or the licensee of any private warehouse, fails, on the requisition of any officer of Customs, to produce any goods which have been deposited in such warehouse, and which have not been duly cleared and delivered therefrom, and is unable to account for such failure to the satisfaction of the Customs-collector,	123	Such keeper or licensee shall, for every such failure, be liable to pay the duties due on such goods, and also a penalty not exceeding fifty rupees in respect of every package or parcel so missing or deficient.
50.—If any goods, after being duly warehoused, are fraudulently concealed in, or removed from, the warehouse, or abstracted from any packages, or transferred from one package to another, or otherwise, for the purpose of illegal removal or concealment,	Chap. XI	Such goods shall be liable to confiscation, and any person concerned in any such offence shall be liable to a penalty not exceeding one thousand rupees.
51.—If any goods lodged in a private warehouse are found to exceed the registered quantity,	Ditto	Such excess, unless accounted for to the satisfaction of the officer in charge of the Custom-house, shall be charged with five times the ordinary duty thereon.
52.—If any goods be removed from the warehouse in which they were originally deposited, except in the presence, or with the sanction, of the proper officer, or under the proper authority for their delivery,	Ditto	Such goods shall be liable to confiscation, and any person so removing them shall be liable to a penalty not exceeding one thousand rupees.
53.—If any person illegally takes any goods out of any warehouse without payment of duty, or aids, assists, or is concerned therein,	Ditto	Such person shall be liable to a penalty not exceeding one thousand rupees.
54.—If any person contravenes any rule regarding the process of transhipment made by the Local Government, or any prohibition or order relating to transhipment notified by the Governor-General in Council, or tranships goods not allowed to be transhipped.	130	Such person shall be liable to a penalty not exceeding one thousand rupees; and any
55.—If any goods be taken on board of any vessel at any Customs-port in contravention of Section 136,	134	goods in respect of which such offence has been committed shall be liable to confiscation.
56.—If any goods not notified in a duly passed shipping-bill are taken on board of any vessel, contrary to the provisions of Section 137,	136	The Master of such vessel shall be liable to a penalty not exceeding one thousand rupees.
57.—If any goods specified in the manifest of any vessel, or in any shipping-bill, are not duly shipped before the departure of such vessel, or are reloaded; and notice of such short shipment or reloading be not given as required by Section 140,	137	The Master of such vessel shall be liable to a penalty not exceeding fifty rupees for every package of such goods.
58.—If any goods duly shipped on board of any vessel be landed, except under Section 141, 142, or 143, at any place other than that for which they have been cleared,	140	The owner of such goods shall be liable to a penalty not exceeding one hundred rupees; and such goods shall be liable to confiscation.
	141	The Master of such vessel shall, unless the landing be accounted for to the satisfaction of the Customs-collector, be liable to a penalty not exceeding three times the value of such goods so landed.

OFFENCES AND PENALTIES—*contd.*

Offences	Section of this Act to which offence has reference.	Penalties.
59.—If any goods on account of which drawback has been paid be not found on board of any vessel referred to in Section 142,	141	The Master of such vessel shall be liable to a penalty not exceeding the entire value of such goods, unless the fact be accounted for to the satisfaction of the Customs-collector.
60.—If any person, without a special pass from any officer of excise at the place of exportation, relands or attempts to reland any spirits shipped for exportation,	154	Such person shall be liable to a penalty not exceeding five hundred rupees.
61.—If any person wilfully contravenes any rule relating to spirits made under Section 155,	155	Such person shall be liable to a penalty not exceeding five hundred rupees ; and all such spirit shall be liable to confiscation.
62.—If, in contravention of any rules made under Section 157, any goods are taken into, or put out of, or carried in, any coasting vessel ; or if any such rules be otherwise infringed,	157	The Master of such vessel shall be liable to a penalty not exceeding one thousand rupees.
63.—If, contrary to any such rules, any coasting vessel touches at any foreign port, or deviates from her voyage, unless forced by unavoidable circumstances ; or if the Master of any such vessel which has touched at a foreign port fails to declare the same in writing to the Customs-collector at the Customs-port at which such vessel afterwards first arrives,	159	The Master of such vessel shall be liable to a penalty not exceeding one thousand rupees ; and if any goods liable to export duty have been landed from, or any goods liable to import duty have been shipped in, such vessel at such foreign port, such Master shall further be liable to a penalty not exceeding three times the duty which would have been leviable on such goods if they had been exported from or imported at a Customs-port to or from a foreign port, as the case may be.
64.—If in the case of any coasting-vessel any of the provisions of Section 158, 159, or 160 are not complied with,	158, 159 & 160	The Master of such vessel shall in each such case be liable to a penalty not exceeding five hundred rupees.
65.—If the person executing any bond given under Section 161 fail to produce the certificate mentioned in the same section, or to show sufficient reason for its non-production,	161	Such person shall be bound to pay a penalty equal to double the amount of Customs-duties which would have been chargeable on the export-cargo of the vessel had she been declared to be bound to a foreign port.
66.—If the Master of any coasting-vessel violates any of the conditions under which a general pass for such vessel has been granted,	164	Such Master shall be liable to a penalty not exceeding one thousand rupees.
67.—If any Master of a coasting-vessel contravenes any of the provisions of Section 165,	165	Such Master shall be liable to a penalty not exceeding five hundred rupees.
68.—If, upon examination, any package entered in the cargo-book required by Section 165, as containing dutiable goods, is found not to contain such goods ; or	165	Such package, with its contents, shall be liable to confiscation.



OFFENCES AND PENALTIES—*contd.*

Offences	Section of this Act to which offence has reference	Penalties.
if any package is found to contain dutiable goods not entered, or not entered as such in such book.		
69.—If the Master of any coasting vessel required under Section 165 to keep a cargo book fails correctly to keep, or to cause to be kept, such book, or to produce the same on demand ; or if at any time there be found on board of any such vessel any goods not entered in such book as laden, or any goods noted as delivered ; or if any goods entered as laden, and not noted as delivered, be not on board	165	Such Master shall be liable to a penalty not exceeding five hundred rupees.
70.—If, contrary to the provisions of this or any other law for the time being in force relating to the Customs, any goods are laden on board of any vessel in any Customs port and carried coastwise ; or if any goods which have been brought coastwise are so unladen in any such port ; or if any goods are found on board of any coasting vessel without being entered in the manifest or cargo book or both (as the case may be) of such vessel,	Chapter XV	Such goods shall be liable to confiscation, and the Master of such vessel shall be liable to a penalty not exceeding five hundred rupees
71.—If the Master of any coasting vessel refuses to bring any document to the Customs-collector when so required under Section 166,	166	Such Master shall be liable to a penalty not exceeding two hundred rupees.
72.—If any person makes or signs, or uses, any declaration or document used in the transaction of any business relating to the Customs, knowing such declaration or document to be false in any particular ; or counterfeits, falsifies or fraudulently alters or destroys any such document, or any seal, signature, initials, or other mark, made or impressed by any officer of Customs in the transaction of any business relating to the Customs ; or being required under this Act to produce any document, refuses or neglects to produce such document ; or being required under this Act to answer any question put to him by an officer of Customs, does not truly answer such question,	General	Such person shall on conviction of any such offence before a Magistrate be liable to a fine not exceeding one thousand rupees.
73.—If any person on board of any vessel or boat in any Customs-port, or who has landed from any such vessel or boat, upon being asked by any such officer whether he has dutiable or prohibited goods about his person or in his possession, declares that he has not, and if any such goods are, after such denial, found about his person, or in his possession,	General	Such goods shall be liable to confiscation, and such person shall be liable to a penalty not exceeding three times the value of such goods.
74.—If any officer of Customs requires any person to be searched for dutiable or prohibited goods, or to be detained, without having reasonable ground to believe that he has such goods about his person, or has been guilty of any offence relating to the Customs,	160	Such officer shall on conviction before a Magistrate, be liable to a fine not exceeding five hundred rupees.

## OFFENCES AND PENALTIES—contd.

Offences.	Section of this Act to which offence has reference	Penalties.
75.—If any officer of Customs, or other person duly employed for the prevention of smuggling, is guilty of a wilful breach of the provisions of this Act,	General	Such officer or person shall, on conviction before a Magistrate, be liable to simple imprisonment for any term not exceeding two years, or to fine, or to both.
76.—If any officer of Customs, or other person duly employed for the prevention of smuggling, practises, or attempts to practise, any fraud for the purpose of injuring the Customs-revenue, or abets or connives at any such fraud, or any attempt to practise any such fraud,	General	Ditto ditto.
77.—If any Police-officer, whose duty it is under Section 180, to send a written notice or cause goods to be conveyed to a Custom-house, neglects so to do,	180	Such officer shall, on conviction before a Magistrate, be liable to a penalty not exceeding one hundred rupees.
78.—If any person intentionally obstructs any officer of Customs or other person duly employed for the prevention of smuggling, in the exercise of any powers given under this Act to such officer or person,	General	Such person shall, on conviction before a Magistrate, be liable to imprisonment for any term not exceeding six months, or to a fine not exceeding one thousand rupees, or to both.
79.—If any officer of Customs, except in the discharge in good faith of his duty as such officer, discloses any particulars learned by him in his official capacity in respect of any goods, or shows any samples delivered to him in such capacity, or if any officer of Customs except as permitted by this Act parts with the possession of any samples delivered to him in his official capacity,	15	He shall be liable to a penalty not exceeding one thousand rupees.
80.—If any person, without the approval of the Customs-collector under Section 202, acts as an agent for the transaction of business as therein mentioned,	202	Such person shall be liable to a penalty not exceeding five hundred rupees.

Nothing in the second column of the above schedule shall be deemed to have the force of law.

Packages and contents included in confiscation of goods.

**168.** The confiscation of any goods under this Act includes any package in which they are found, and all the other contents thereof.

Every vessel, cart, or other means of conveyance, and every horse or other animal used in the removal of any goods liable to confiscation under this Act, shall in like manner be liable to confiscation.

Tackle, &c., included in confiscation of vessels.

The confiscation of any vessel under this Act includes her tackle, apparel, and furniture.

## CHAPTER XVII.

## PROCEDURE RELATING TO OFFENCES, APPEALS, &amp;c.

**169.** Any officer of Customs duly employed in the prevention of smuggling may search any person on board of any vessel in any port in British India, or any person who has landed from any vessel ;

Power to search on reasonable suspicion.

Provided that such officer has reason to believe that such person has dutiable or prohibited goods secreted about his person.

**170.** When any officer of Customs is about to search any person under the provisions of Section 169, such person may require the said officer to take him, previous to search, before the nearest Magistrate or Customs-collector.

Persons may, before search, require to be taken before Magistrate or Customs-collector

If such requisition be made, the officer of Customs may detain the person making it until he can bring him before the nearest Magistrate or Customs-collector.

The Magistrate or Customs-collector before whom any person is so brought shall, if he see no reasonable ground for search, forthwith discharge such person ; but if otherwise, shall direct that the search be made.

A female shall not be searched by any but a female.

**171.** Any duly empowered officer of Customs, or other person duly employed for the prevention of smuggling, may stop and search for smuggled goods any vessel, cart, or other means of conveyance ; provided that he has reason to believe that smuggled goods are contained therein.

Power to stop vessels, carts, &c., and search for goods on reasonable suspicion.

**172.** Any Magistrate may, on application by a Customs-collector, stating his belief that dutiable or prohibited goods are secreted in any place within the local limits of the jurisdiction of such Magistrate, issue a warrant to search for such goods.

Power to issue search-warrants.

Such warrant shall be executed in the same way, and shall have the same effect, as a search-warrant issued under the law relating to Criminal Procedure.

**173.** Any person against whom a reasonable suspicion exists that he has been guilty of an offence under this Act, may be arrested in any place, either upon land or water, by any officer of Customs or other person duly employed for the prevention of smuggling.

Persons reasonably suspected may be arrested

**174.** Every person arrested on the ground that he has been guilty of an offence under this Act, shall forthwith be taken before the nearest Magistrate or Customs-collector.

Persons arrested to be taken to nearest Magistrate or Customs-collector.

**175.** When any such person is taken before a Magistrate, such Magistrate may, if he thinks fit, either commit him to gaol or order him to be kept in the custody of the Police for such time as is necessary to enable such Magistrate to communicate with the proper officers of Customs :

Persons taken before Magistrate may be detained or admitted to bail.

Provided that any person so arrested, committed, or kept shall be released on giving security to the satisfaction of the Magistrate to appear at such time and place as such Magistrate appoints in this behalf.

176. If any person liable to be arrested under this Act is not arrested at the time of committing the offence for which he afterwards arrested. is so liable, or after arrest makes his escape, he may at any time afterwards be arrested and taken before a Magistrate, to be dealt with as if he had been arrested at the time of committing such offence.

177. When any person employed on the crew of any of the ships of Her Majesty's Navy, Indian Marine, or Marine Survey, is arrested under this Act, the arresting officer shall forthwith give notice thereof to the commanding officer of the ship who shall thereupon place such person in security on board of such ship, until the arresting officer has obtained a warrant from a Magistrate for bringing up such person to be dealt with according to law.

The Magistrate shall grant such warrant upon complaint made to him by the arresting officer, stating the offence for which the person is detained.

178. Any things liable to confiscation under this Act may be seized in any place, either upon land or water, by any officer of Customs or other person duly employed for the prevention of smuggling.

179. All things seized on the ground that they are liable to confiscation under this Act shall, as soon as conveniently may be, be delivered into the care of any Customs-officer authorized to receive the same.

If there be no such officer at hand, all such things shall be carried to and deposited at the Custom-house nearest to the place of seizure.

If there be no Custom-house within a convenient distance, such things shall be deposited at the nearest place appointed by the Chief Customs-Authority for the deposit of things so seized.

180. When any things liable to confiscation under this Act are seized by any police-officer on suspicion that they have been stolen, he may carry them to any police-station or Court at which a complaint connected with the stealing or receiving of such things has been made, or an enquiry connected with such stealing or receiving is in progress, and there detain such things until the dismissal of such complaint or the conclusion of such enquiry or of any trial thence resulting.

In every such case the police-officer seizing the things shall send written notice of their seizure and detention to the nearest Customs-house; and immediately after the dismissal of the complaint or the conclusion of the enquiry or trial, he shall cause such things to be conveyed to, and deposited at, the nearest Customs-house, to be there proceeded against according to law.

181. When anything is so seized, or any person is arrested, under this Act, the officer or other person making such seizure or arrest shall, on demand of the person in charge of the thing so seized, or of the person so arrested, give him a statement in writing of the reason for such seizure or arrest.

**182.** In every case except the cases mentioned in Section 167, Nos. 26, 72, and 74 to 76, both inclusive, in which, under this Act, anything is liable to confiscation or to increased rates of duty; or any person is liable to a penalty, such confiscation, increased rate of duty, or penalty may be adjudged—

(a) without limit, by a Deputy Commissioner or Deputy Collector of Customs, or a Customs-collector;

(b) up to confiscation of goods not exceeding two hundred and fifty rupees in value, and imposition of penalty, or increased duty not exceeding one hundred rupees, by an Assistant Commissioner or Assistant Collector of Customs;

(c) up to confiscation of goods not exceeding fifty rupees in value, and imposition of penalty or increased duty not exceeding ten rupees, by such other subordinate officers of Customs as the Local Government may, from time to time, empower in that behalf in virtue of their office:

Provided that the Local Government may, in the case of any officer performing the duties of a Customs-collector, limit his powers to those indicated in clause (b) or in clause (c) of this section, and may confer on any officer by name, or in virtue of his office, the powers indicated in clauses (a), (b), or (c) of this section.

**183.** Whenever confiscation is authorized by this Act, the officer adjudging it shall give the owner of the goods an option to pay in lieu of confiscation such fine as the officer thinks fit.

**184.** When anything is confiscated under Section 182, such thing shall thereupon vest in Her Majesty. The officer adjudging confiscation shall take and hold possession of the thing confiscated, and every officer of police, on the requisition of such officer, shall assist him in taking and holding such possession.

**185.** If any vessel actually departs without a port-clearance, or after failing to bring-to when required at any station appointed under Section 17, the penalty to which the Master of such vessel is liable may be adjudged by the Chief Customs-officer of any Customs-port to which such vessel proceeds, or in which she is, and in the case of Aden, by such officer as the Governor of Bombay in Council appoints in this behalf.

A certificate of such departure or failure to bring-to when required, purporting to be signed by the Chief Customs-officer of the port from which the vessel is stated to have so departed, shall be *prima facie* proof of the fact so certified.

**186.** The award of any confiscation, penalty, or increased rate of duty under this Act by an officer of Customs shall not prevent the infliction of any punishment to which the person affected thereby is liable under any other law.

**187.** All offences against this Act, other than those cognizable under Section 182 by officers of Customs, may be tried summarily by a Magistrate.

**188.** Any person deeming himself aggrieved by any decision or order passed by an officer of Customs under this Act may, Appeal from subordinate to Chief Customs-Authority. within three months from the date of such decision or order, appeal therefrom to the Chief Customs-Authority, or, in such cases as the Local Government directs, to any officer of Customs not inferior in rank to a Customs-collector, and empowered in that behalf by name or in virtue of his office by the Local Government.

Such authority or officer may thereupon make such further enquiry and pass such order as he thinks fit, confirming, altering, or annulling the decision or order appealed against :

Provided that no such order in appeal shall have the effect of subjecting any person to any greater confiscation, penalty, or rate of duty than has been adjudged against him in the original decision or order.

Every order passed in appeal under this section shall, subject to the power of revision conferred by Section 191, be final.

**189.** When the decision or order appealed against relates to any duty or penalty leviable in respect of any goods, the Deposit, pending appeal, of duty demanded. owner of such goods, if desirous of appealing against such decision or order, shall, pending the appeal, deposit in the hands of the Customs-collector at the port where the dispute arises, the amount demanded by the officer passing such decision or order.

When delivery of such goods to the owner thereof is withheld merely by reason of such amount not being paid, the Customs-collector shall upon such deposit being made cause such goods to be delivered to such owner.

If upon any such appeal it is decided that the whole or any portion of such amount was not leviable in respect of such goods, the Customs-collector shall return such amount or portion (as the case may be) to the owner of such goods on demand by such owner.

**190.** If, upon consideration of the circumstances under which any penalty, increased rate of duty, or confiscation has Power to remit penalty or confiscation been adjudged under this Act by an officer of Customs, the Chief Customs-Authority is of opinion that such penalty, increased rate, or confiscation ought to be remitted in whole or in part, or commuted, such Authority may remit the same or any portion thereof, or may, with the consent of the owner of any goods ordered to be confiscated, commute the order of confiscation to a penalty not exceeding the value of such goods.

**191.** The Local Government may, on the application of any person aggrieved by any decision or order passed under this Act by any officer of Customs or Chief Customs-Authority, and from which no appeal lies, reverse or modify such decision or order. Revision by Local Government.

**192.** When any fine, penalty, or increased rate of duty is leviable under this Act, the goods in respect of which such fine, penalty, or rate is leviable shall not be removed by the owner until such fine, penalty, or rate is paid. Goods on which penalty incurred not to be removed till payment.

If any person has become liable to any such fine, penalty, or rate in respect of any goods, the Customs-collector may detain any other goods belonging to such person passing through the Customs-house until such fine, penalty, or rate is paid.

Other goods of person liable to fine or penalty may be detained

193. When a penalty or increased rate of duty is adjudged against any person under this Act by any officer of Customs, such officer, if such penalty or increased rate be not paid, may levy the same by sale of any goods of the said person which may be in his charge or in the charge of any other officer of Customs.

Enforcement of payment of penalty

When an officer of Customs who has adjudged a penalty or increased rate of duty against any person under this Act is unable to realise the unpaid amount thereof from such goods, such officer may notify in writing to any Magistrate within the local limits of whose jurisdiction such person or any goods belonging to him may be, the name and residence of the said person and the amount of penalty or increased rate of duty unrecovered: and such Magistrate shall thereupon proceed to enforce payment of the said amount in like manner as if such penalty or increased rate had been a fine inflicted by himself.

## CHAPTER XVIII.

### MISCELLANEOUS.

194. Any officer of Customs may open any package, and examine any goods brought by sea to, or shipped or brought for shipment at, any Customs-port.

Power to open packages and examine goods

195. The Customs-collector may on the entry or clearance of any goods, or at any time while such goods are being passed through the Customs-house, take samples of such goods, for examination or for ascertaining the value thereof on which duties are payable, or for any other necessary purpose.

Power to take samples of goods

Every such sample shall, if practicable, be, at the option of the owner, either restored to him, or sold and the proceeds accounted for to him.

196. The unshipping, carrying, shipping, and landing of all goods, and the bringing of them to the proper place for examination or weighing, and the putting of them into and out of the scales, and the opening, unpacking, bulking, sorting, lotting, marking, and numbering of goods, where such operations are necessary or permitted; and the removing of goods to, and the placing of them in, the proper place of deposit, shall be performed by, or at the expense of the owner, of such goods.

Owner to pay expense incidental to compliance with Customs-law

197. No owner of goods shall be entitled to claim from any officer of Customs compensation for any loss or damage occurring to such goods at any time while they remain or are lawfully detained in any Custom-house, or on any Custom-house wharf, or under charge of any officer of Customs, unless it be proved that such loss or damage was occasioned by the neglect or wilful act of such officer of Customs.

No compensation for loss or injury except on proof of neglect or wilful act

**198.** No proceeding other than a suit shall be commenced against any person for anything purporting to be done in pursuance of this Act without giving to such person a month's previous notice in writing of the intended proceeding, and of the cause thereof; or after the expiration of three months from the accrual of such cause.

Notice of proceedings.  
Limitation.

**199.** The Chief Customs-Authority may from time to time fix the period after the expiration of which goods left on any Custom-house wharf, or other authorized landing place or part of the Custom-house premises, shall be subject to payment of fees, and the amount of such fees.

Wharfrage-fees.

**200.** A duplicate of any certificate, manifest, bill, or other Custom-house document may, on payment of a fee not exceeding ten rupees, be furnished, at the discretion of the Customs-collector, to any person applying for the same, if the Customs-collector is satisfied that no fraud has been committed or is intended by the applicant.

Duplicate of documents  
may be granted on payment  
of fee

**201.** Except in the cases provided for by Sections 36, 55, 63, and 94, the Customs-collector may in his discretion, upon payment of one rupee, authorize any document, after it has been entered and recorded in the Custom-house, to be amended.

Amendment of documents.

**202.** No person authorized to act as an agent for the transaction of any business relating to the entrance or clearance of any vessel, or the import or export of goods or baggage, shall so act in any Custom-house, unless such authorization is approved by the Customs-collector.

Custom-house agents.

Such officer may require any person so authorized to give a bond with sufficient security, in any sum not exceeding five thousand rupees, for his faithful behaviour as regards the Custom-house regulations and officers.

Such officer may, in case of misbehaviour of the person so authorized, suspend or withdraw such approval, but an appeal against every such suspension or withdrawal shall lie to the Chief Customs-Authority, whose decision thereon shall be final.

Every appeal under this section shall be made within one month of the suspension or withdrawal.

**203.** When any person applies to any officer of Customs for permission to transact any specified business with him on behalf of any other person, such officer may require the applicant to produce a written authority from the person on whose behalf such business is to be transacted, and in default of the production of such authority may refuse such permission.

Agent to produce authority if required.

The clerk, servant, or agent of any person or mercantile firm may transact business generally at the Custom-house on behalf of such person or firm; Provided that the Customs-collector may refuse to recognize such clerk, servant, or agent unless such person or a member of such firm identifies such clerk, servant or agent to the Customs-collector as empowered to transact such business, and deposits with the Customs-collector an authority in writing duly signed, authorizing such clerk, servant, or agent to transact such business on behalf of such person or firm.



**204.** All rules made under this Act shall be notified in the official Gazette, and shall thereupon have the force of law. Rules to be notified. All such rules for the time being in force shall be collected, arranged, and published at intervals not exceeding two years, and shall be sold to the public at a reasonable price.

**205.** Any notification made by any authority under powers conferred by this Act may be cancelled in like manner by the same authority. Cancellation of notification.

**206.** If in any case relating to the removal of goods from a warehouse without payment of duty, the person offending be an officer of Customs not acting in execution of his duty, and be prosecuted to conviction by the owner of such goods, no duty shall be payable in respect of such goods. For any damage so occasioned by such officer, the Customs-collector shall, with the sanction of the Chief Customs-Authority, make due compensation to such owner. Remission of duty and compensation to owner in certain cases.

**207.** Nothing in this Act shall affect any law for the time being in force relating to the Commissioners for making improvements in the Port of Calcutta or the Trustees of the Port of Bombay, or any like body hereafter created for any other port. Saving of Calcutta Port Commissioners' and Bombay Port Trust Acts

NOTE —As amended by Act IX of 1885, Section 6

#### SCHEDULE.

##### PART I --ACTS OF THE GOVERNOR-GENERAL OF INDIA IN COUNCIL

Number and year.	Title	Extent of repeal
XXI of 1856 ..	An Act to consolidate and amend the law relating to the Abkaree Revenue in the Presidency of Fort William in Bengal	Section eight Sections ten to fifteen, both inclusive, the last sentence of section sixteen, and the form of bond annexed to the Act
VI of 1863 ...	An Act to consolidate and amend the laws relating to the administration of the Department of Sea Customs in India	The whole
X of 1868 ...	An Act to amend the Consolidated Customs Act.	The whole.
XVII of 1869 ..	An Act to shorten the time for landing cargo.	The whole.
XIV of 1871 ...	An Act for the further amendment of the Consolidated Customs Act	The whole.
VI of 1873 ...	An Act to amend the law relating to the Transhipment of goods imported by steamer, and for other purposes.	The whole.
XVI of 1875 ...	An Act to amend the law relating to Customs Duties, and for other purposes.	Sections five, six, seven and twelve.

## PART II.—FORMS.

## A.—FORM OF BOND FOR IMPORT DUTY.

(See Section 92).

## BOND

No. 18

We, *A. B.*, now of \_\_\_\_\_; and *C. D.*,  
 of the same place, are jointly and severally bound to Her Majesty's Secretary of State for  
 India in Council in the sum of Government rupees \_\_\_\_\_ to be paid to the said Secretary  
 of State in Council, for which payment we jointly and severally bind ourselves and our legal  
 representatives.

( Date )

(Signed)

The above bounden \_\_\_\_\_ having applied to the  
 officer in charge of the Customs-house at \_\_\_\_\_  
 for and obtained permission to lodge in the warehouse \_\_\_\_\_ for a  
 period of \_\_\_\_\_ the following goods, that is to say—  
 imported by sea from \_\_\_\_\_ on board of the  
 ship \_\_\_\_\_ and entered in the Custom-house Books  
 as No. \_\_\_\_\_ of the Register of Goods imported by Sea ;

The condition of this Bond is, that .

If the \_\_\_\_\_, or their legal representatives, shall observe all the  
 rules prescribed in the Sea Customs Act, 1878, to be observed by owners of goods warehoused,  
 and by persons obtaining permission to warehouse goods under the provisions thereof ;

And if the said \_\_\_\_\_ or their legal representatives, shall pay to the officer in  
 charge of the Custom-house at the port of \_\_\_\_\_ all dues, whether Customs-  
 duties, warehouse dues, rent, or other lawful charges which shall be demandable on the said  
 goods, or on account of penalties incurred in respect to them, within \_\_\_\_\_

\_\_\_\_\_ shall allow in that behalf, together with interest on every such sum at the  
 rate of six per cent. per annum from the date of demand thereof being made in writing by the  
 said officer in charge of the Custom-house ;

And if, within the term so fixed or enlarged, the said goods, or any portion thereof, having  
 been removed from the said warehouse for home consumption or re-exportation by sea, the full  
 amount of all customs-duties, warehouse dues, rent, and other lawful charges, penalties, and  
 interest demandable as aforesaid shall have been first paid on the whole of the said goods ;

This obligation shall be void,

Otherwise, and on breach or failure in the performance of any part of this condition, the  
 same shall be in full force

( Date )

(Signed) ( )

## B—FORM OF BONDED WAREHOUSE WARRANT

(See Section 96)

I do hereby certify that \_\_\_\_\_ have deposited in the Warehouse  
 of \_\_\_\_\_ the undermentioned goods \_\_\_\_\_, which goods, the  
 engage on demand, after payment of rent and incidental charges and Government dues or  
 customs chargeable thereon, to deliver to the said \_\_\_\_\_ or their  
 assigns, or to the holder of this warrant to whom it may be transferred by endorsement

## C.—FORM OF BOND FOR THE REMOVAL OF SPIRIT FROM A LICENSED DISTILLERY

(See Sections 144 and 152).

We,  
 are jointly and severally bound to Her Majesty's Secretary of State for India in Council in the  
 sum of Government rupees \_\_\_\_\_ to be paid to the said Secretary of State in  
 Council, for which payment we jointly and severally bind ourselves and our legal representa-  
 tives ;

, dated this \_\_\_\_\_ day of 18

(Signed) ( )

The above bounden \_\_\_\_\_ being indebted to Her Majesty's Secretary of State for  
 India in Council in the sum of Government rupees \_\_\_\_\_ being the amount of duty payable  
 at the rate of rupees \_\_\_\_\_ per imperial gallon London proof, for \_\_\_\_\_ gallons of  
 (or for \_\_\_\_\_ gallons of proof spirit used in the preparation of \_\_\_\_\_ dozens of bottles or  
 gallons of cordials and liquors as specified in the annexed schedule) manufactured at  
 which the said \_\_\_\_\_ have been allowed to remove thence for exportation by sea,  
 subject to the provisions of The Sea Customs' Act 1878, without having paid such duty.

The condition of this obligation is, that if the above bounden or their legal representatives, shall, at the expiration of four calendar months from the date of this obligation, pay or cause to be paid to the said Secretary of State in Council duty at the rate of rupees per imperial gallon of proof spirit for all or any portion of the above-mentioned which shall not have been then exported by sea to a foreign port, subject to the aforesaid provisions (of which exportation, if any, due proof shall be given), or passed for local consumption on payment of duty, then this bond shall be void; otherwise the same shall remain in full force.

Signed in the presence of

Place

Date

If the bond be for cordials and other liquors under Section 152, add—Schedule

Description of cordials and liquors.	Quantity in bottles or gallons.	Quantity of proof spirit.
1	2	3

NOTES.—(a). Act XXI of 1887 is to be read with and taken as part of this Act.

(b).—Exemptions under S. 23 :—

1. The duty on all still wines imported into British India to be henceforward one rupee per Imperial gallon or six quart bottles.—(*Government of India No. 116, dated 12th September 1879*).

2. Grey cotton piece-goods which contain no yarn of a higher number than 30 S. exempted.—(*Government of India No. 59, dated 13th March 1879*).

3. Indigo and lac of all sorts exempted.—(*Government of India No. 66 C, dated 24th February 1880*)

4. Swedish round iron of all sizes and Swedish iron sheets and plates exempted from four-fifths of the duty to which they are liable.—(*Government of India No. 70 C, dated 6th March 1880*).

5. Salted fish imported into any port in the Bombay presidency or Sindh exempted from all duty to which it is liable under the Indian Tariff Act.—(*Government of India No. 3659, dated 13th October 1880*).

6. Gum Arabic, Gum Benjamin, Gum Olibanum or frankincense, Mother-o' pearl, and Tortoise-shell exempted.—(*Government of India No. 3707, dated 13th October 1880*).

7. Materials used in the construction of tramways, exempted.—(*Government of India No. 822, dated 28th May 1881*).

8. Exemption notified in No. 58, dated 12th March 1878, extended to the class of grey cotton piece-goods known as dhotis and dhoti-bordered piece goods which contain no yarn of higher number than 30 S. except in the border, when such border, whether coloured white or grey, is not more than  $4\frac{1}{2}$  inches in width.—(*Government of India No. 54 C, dated 5th February 1881*).

9. All materials and apparatus used in the construction and maintenance of lines of telegraphic communication exempted.—(*Government of India No. 2866, dated 6th September 1881*).

10. From duty under the Indian Tariff Act, 1882, on importation into British India from Aden, arms which have already paid duty under the Indian Arms Act, 1878, on importation into Aden. Such exemption to be made only when the Customs authority receives from the importer a duly certified statement from the responsible authority at Aden that the arms on which exemption is claimed have actually paid duty at Aden within three years of their importation into British India. (*Government of India No. 1503, dated 6th June 1884, Gazette of India of 7th idem*).

11. The undermentioned arms, or any of them, when they either accompany a Commissioned Officer of a Volunteer Corps or are certified by the Commandant of the Corps to be imported by the officer for the purposes of his equipment:—

(a) a sword, and

(b) a revolver or a pair of pistols.

(*Government of India No. 296 S., dated 20th November 1835, Gazette of India of 21st idem*).

12. The undermentioned arms, or any of them, when they either accompany a Military Officer or are certified by the Commandant of his Corps to be imported by the officer for the purposes of his equipment:—

(a) a sword, and

(b) a revolver or a pair of pistols.

(*Government of India No. 30 S. dated 26th January 1887, Gazette of India of 29th idem*).

13 Morris' rifles and patent ammunition when imported by Officers Commanding Volunteer Corps for the instruction of their men. (*Government of India No 17 S., dated 21st January 1886, Gazette of India of 23rd idem.*)

## ACT No. XI of 1878.

(Passed on the 15th March 1878).

An Act to consolidate and amend the law relating to Arms, Ammunition and Military Stores.

Whereas it is expedient to consolidate and amend the law relating to arms, ammunition, and military stores; It is hereby enacted as follows:—

Preamble.

### I.—Preliminary.

1. This Act may be called "The Indian Arms Act, 1878," and it extends to the whole of British India.

Short title.

Local extent

Savings.

But nothing herein contained shall apply to—

(a) arms, ammunition, or military stores on board any sea-going vessel and forming part of her ordinary armament or equipment, or

(b) the manufacture, conversion, sale, import, export, transport, bearing, or possession of arms, ammunition, or military stores by order of the Government, or by a public servant, or a volunteer enrolled under the Indian Volunteers Act, 1869, in the course of his duty as such public servant or volunteer.

2. This Act shall come into force on such day as the Governor-General in Council by notification in the *Gazette of India* appoints.

Commencement.

NOTE.—The Act came into force on the 1st October 1878.—(*Government of India Notification No. 1169, dated 27th June 1878.*)

3. On and from that day the enactments mentioned in the first schedule hereto annexed shall be repealed to the extent specified in the third column of the said schedule. But all authorities and permissions given, licenses and exemptions granted, orders and appointments made, notifications published, and rules, conditions, and forms prescribed under any enactment hereby repealed, shall be deemed to be respectively given, granted, made, published and prescribed under this Act.

Repeal of enactments.

And all such authorities, permissions, licenses and exemptions shall, except as otherwise provided by this Act, continue in force for the periods for which they may have been given or granted, respectively, or, where no such period is expressly fixed, for one year from the date on which this Act comes into force, and shall then cease to have effect.

Interpretation-clause.

4. In this Act unless there be something repugnant in the subject or context—

"Cannon" includes also all howitzers, mortars, wall-pieces, mitrailleuses, and other ordnance and machine-guns, all parts of the same, and all carriages, platforms, and appliances for mounting, transporting, and serving the same:

"Arms" includes fire-arms, bayonets, swords, daggers, spears, spear-heads, and bows and arrows, also cannon and parts of arms, and machinery for manufacturing arms:

"Ammunition" includes also all articles specially designed for torpedo service and submarine mining, rockets, gun-cotton, dynamite, lithofracteur, and other explosive or fulminating material, gun-flints, gun-wads, percussion-caps, fuses, and friction tubes, all parts of ammunition, and all machinery for manufacturing ammunition, but does not include lead, sulphur, or saltpetre :

"Military stores" in any section of this Act as applied to any part of British India means any Military stores to which the Governor-General in Council may from time to time by notification in the *Gazette of India* specially extend such section in such part, and includes also, all lead, sulphur, saltpetre and other material to which the Governor-General in Council may from time to time so extend such section :

"License" means a license granted under this Act, and "licensed" means holding such license.

NOTE.—Iron droppings or pellets known as "boonda" are to be treated as "ammunition" for the purposes of the Act —(*Punjab Government Notification No 3298, dated 8th November 1881, Punjab Gazette of 17th idem*)

## II.—Manufacture, Conversion and Sale.

5. No person shall manufacture, convert, or sell, or keep, offer, or expose for sale, any arms, ammunition, or military stores except under a license and in the manner and to the extent permitted thereby.

Unlicensed manufacture, conversion, and sale prohibited.

Nothing herein contained shall prevent any person from selling any arms or ammunition which he lawfully possesses for his own private use to any person who is not by any enactment for the time being in force prohibited from possessing the same; but every person so selling arms or ammunition to any person other than a person entitled to possess the same by reason of an exemption under section twenty-seven of this Act shall, without necessary delay, give to the Magistrate of the District, or to the officer in charge of the nearest police-station, notice of the sale and of the purchaser's name and address.

NOTE.—The result of the enquiry made in Home Department Circular No 22—733-741, dated 2nd June 1881, has been to show that considerable diversity of practice exists in the several provinces in regard to the issue of licenses, under the provisions of the Indian Arms Act, 1878, for the repair, as differing from the manufacture or conversion, of arms. In some provinces such licenses have been required, while in others it has not been the practice to require persons who merely repair arms to provide themselves with licenses under the Act. In one province it has been held that such cases fall under Section 5 of the Arms Act, inasmuch as in order to repair arms a person must necessarily have such arms in his possession.

2. It may be observed that when a person who repairs arms is also a maker of arms, it is necessary, under the existing law, that he should provide himself with a license in the latter capacity, so that the present question practically only affects persons in the position of ordinary blacksmiths or others who may have arms in their temporary keeping for purposes of repair. In regard to these classes of persons, the Governor-General in Council is decidedly of opinion that it formed no part of the intention of the Arms Act to require licenses to be taken out, and His Excellency in Council is accordingly pleased to direct that, in future, no license shall be required merely for carrying on the business of repairing arms.—(*Government of India Resolution No 69—2039 50, dated 15th December 1881, published as Punjab Government Notification No. 51, Punjab Gazette of 12th January 1882*)

## III.—Import, Export, and Transport.

6. No person shall bring or take by sea or by land into or out of British India any arms, ammunition or military stores except under a license and in the manner and to the extent permitted by such license.

Unlicensed importation and exportation prohibited.

Nothing in the first clause of this section extends to arms (other than cannon) or ammunition imported or exported in reasonable quantities for his own private use by any person lawfully entitled to possess such arms or ammunition; but the Collector of Customs or any other officer empowered by the Local Government in this behalf by name or in virtue of his office may at any time detain such arms or ammunition until he receives the orders of the Local Government thereon.

*Explanation.*—Arms, ammunition, and military stores taken from one part of British India to another by sea or across intervening territory not being part of British India are taken out of and brought into British India within the meaning of this section.

7. Notwithstanding anything contained in the Sea Customs Act, 1878, no arms, ammunition, or military stores shall be deposited in any warehouse licensed under Section 16 of that Act without the sanction of the Local Government.

8. Repealed by Act XI of 1882.

9. The Governor-General in Council may from time to time by notification in the *Gazette of India*, direct that duties not exceeding those specified in the second schedule hereto annexed shall be levied upon any articles mentioned in that schedule and brought by land into any part of British India, and may in like manner cancel any such notification.

10. The Governor-General in Council may from time to time by notification in the *Gazette of India*—

(a) regulate or prohibit the transport of any description of arms, ammunition, or military stores over the whole of British India or any part thereof, either altogether or except under a license and to the extent and in the manner permitted by such license, and

(b) cancel any such notification.

*Explanation.*—Arms, ammunition, or military stores transhipped at a port in British India are transported within the meaning of this section.

11. The Local Government with the previous sanction of the Governor-General in Council may, at any place along the boundary line between British India and Foreign territory, and at such distance within such line as it deems expedient, establish searching-posts at which all vessels, carts, and baggage animals and all boxes, bales, and packages in transit may be stopped and searched for arms, ammunition, and military stores by any officer empowered by such Government in this behalf by name or in virtue of his office.

NOTE.—See Note (a) at the end of the Act.

12. When any person is found carrying or conveying any arms, ammunition, or military stores, whether covered by a license or not, in such manner or under such circumstances as to afford just grounds of suspicion that the same are being carried by him with intent to use them, or that the same may be used, for any unlawful purpose, any person may without warrant apprehend him and take such arms, ammunition or military stores from him.

Any person so apprehended, and any arms, ammunition, or military stores so taken by a person not being a Magistrate or police-officer, shall be delivered over as soon as possible to a police-officer.

All persons apprehended by, or delivered to, a police-officer, and all arms and ammunition seized by or delivered to any such officer under this section, shall be taken without unnecessary delay before a Magistrate.

#### IV.—Going armed and possessing Arms, &c.

13. No person shall go armed with any arms except under a license and to the extent and in the manner permitted thereby.

Any person so going armed without a license or in contravention of its provisions may be disqualified by any Magistrate, police-officer, or other person empowered by the Local Government in this behalf by name or by virtue of his office.

14. No person shall have in his possession or under his control any cannon or fire-arms, or any ammunition or military stores, except under a license and in the manner and to the extent permitted thereby.

During the three months next following the date on which this Act comes into force, nothing in the former part of this section shall apply to the possession by any person of any fire-arms, ammunition, or military stores in any place to which Section 32, clause 2, of Act No. XXXI of 1860 does not apply at such date.

Any person having within the said period of three months any fire-arms, ammunition, or military stores in his possession in any such place may, and any person having at the expiry of the same period any fire-arms, ammunition, or military stores in his possession in any such place without a license shall, deposit the same with the officer in charge of the nearest police-station.

If the owner of any thing deposited under this section does not, within the year next following the date on which this Act comes into force, obtain a license authorizing him to possess such thing and apply for delivery of the same, such thing shall be forfeited to Her Majesty.

15. In any place to which Section 32, clause 2 of Act No. XXXI of 1860, applies at the time this Act comes into force, or to which the Local Government, with the previous sanction of the Governor-General in Council, may by notification in the local official Gazette, specially extend this section, no person shall have in his possession any arms of any description except under a license and in the manner and to the extent permitted thereby.

16. Any person possessing arms, ammunition, or military stores, the possession whereof by him has, in consequence of the cancellation or expiry of a license or by the issue of a notification under section fifteen, become unlawful, shall deposit the same without unnecessary delay with the officer in charge of the nearest police-station.

If the owner of anything deposited under this section does not, within three years from the date on which such thing is so deposited, pre-

and a license authorizing him to possess the same, and apply for delivery of the same, such thing shall be forfeited to Her Majesty.

#### V.—Licenses.

17. The Governor-General in Council may, from time to time, by notification in the *Gazette of India*, make rules to determine the officers by whom, the form in which, and the terms and conditions on and subject to which, any license shall be granted, and may by such rules among other matters—

- (a) fix the period for which such license shall continue in force ;
- (b) fix a fee payable by stamp or otherwise in respect of any such license granted in a place to which Section 32, clause 2, of Act No. XXXI of 1860 applies at the time this Act comes into force, or in respect of any such license other than a license for possession granted in any other place ;
- (c) direct that the holder of any such license other than a license for possession shall keep a record or account in such form as the Local Government may prescribe of anything done under such license, and exhibit such record or account when called upon by an officer of Government to do so ;
- (d) empower any officer of Government to enter and inspect any premises in which arms, ammunition, or military stores are manufactured or kept by any person holding a license of the description referred to in section five or section six ;
- (e) direct that any such person shall exhibit the entire stock of arms, ammunition, and military stores in his possession or under his control to any officer of Government so empowered, and
- (f) require the person holding any license or acting under any license to produce the same and to produce or account for the arms, ammunition, or military stores covered by the same when called upon by an officer of Government so to do.

NOTES—(a). I am directed to acknowledge the receipt of your letter No. 501, dated the 26th April last, submitting for consideration the question whether refund of impressed stamps should be granted in cases where stamped applications to carry and possess arms, &c., under the Arms Act (XI of 1878) have been refused by a Magistrate.

2. In reply, I am to explain that Section 17, Clause (b), of the Arms Act empowers the Governor-General in Council to fix a fee payable in respect of a license "granted," and it seems doubtful whether the fee can properly be retained when such application is refused.

3. In the event, therefore, of an application for a license under the Arms Act, bearing the requisite fee in the shape of impressed stamps, being refused by the Executive authorities, a refund of the stamp fee paid should, in the opinion of the Governor-General in Council, be allowed.—(*Government of India No. 1084, dated 10th June 1879, Punjab Government Notification No. 8121, dated 27th October 1879, Punjab Gazette of 30th idem.*)

(b).—Under the provisions of Section 17 of the Indian Arms Act, 1878, the Governor-General in Council is pleased to make the following rule, in substitution of the rule contained in Home Department Notification No. 1555, dated the 30th September 1881, regarding the grant of licenses for the possession and transport of gunpowder and fuses required for blasting purposes in connection with agricultural works or works of public utility :—

#### RULE

Licenses may be granted to cultivators and other persons, without payment of any fee entitling the holder to possess and transport gunpowder and fuses in reasonable quantities when the same are proved to the satisfaction of the officer granting the license to be required *bona fide* for blasting purposes in connection with agricultural works or works of public utility.

Such licenses shall be given in the form appended to Notification No. 1555, dated 30th September 1881.—(*Government of India Notification No. 1311, dated 1st September 1882.*)



License to possess and transport gunpowder fuses for *bond fide* blasting purposes.  
[No fee payable.]

Name of license-holder, with particulars of residence.	COLUMNS TO BE FILLED IN IN CASES OF TRANSPORT.			Quantity of gunpowder and fuses.	District or place within which license is valid.	Term for which license is valid.
	Place of despatch, route, and mode of transit.	Time for which pass is valid.	Destination.			
		From the to the 188				

Conditions to be entered on reverse of license :—

The license is subject to the provisions of the Arms Act, and of the rules framed thereunder.

It covers only the persons and the quantity of gunpowder and fuses named therein.

It extends only to the district or place named therein, and is void after the expiration of the term mentioned.

In cases of transport —

The license becomes void if the time occupied in transit exceeds the period specified, or if the consignment breaks bulk before reaching the place of destination, or if the articles are taken by any other route than that specified in the license.

The contents of each package covered by the license must be described in legible letters on the outside of such package.

On arrival at their destination the articles must be available for exhibition to the Magistrate of the district or other principal officer.—(*Government of India Notification No. 1555, dated 30th September 1881*).

Under the provisions of Section 17 of the Indian Arms Act, 1878, and in continuation of Home Department Notification No. 1311, dated the 1st instant, the Governor-General in Council is pleased to make the following Rule regarding the grant of licenses for the possession and transport of gunpowder and fuses required for blasting purposes :—

#### RULE.

Licenses may be granted to contractors and other persons without payment of any fee entitling the holder to possess and transport gunpowder and fuses in reasonable quantities, when the same are proved to the satisfaction of the officer granting the license to be required *bond fide* for blasting purposes.

Such licenses shall be given in the form appended to Notification No. 1555, dated 30th September 1881.—(*Government of India Notification No. 1448, dated 15th September 1882*).

Under the provisions of Section 17 of the Indian Arms Act, 1878, and in continuation of Home Department Notification No. 1448, dated 15th September 1882, the Governor-General in Council is pleased to make the following rule regarding the grant of licenses for the transport of dynamite, blasting gelatine, and detonating caps required for blasting purposes :—

#### RULE.

Licenses may be granted to contractors and other persons, without payment of any fee entitling the holder to transport dynamite, blasting gelatine, and detonating caps in reasonable quantities, when the same are proved to the satisfaction of the officer granting the license to be required *bond fide* for blasting purposes.

Such licenses shall be given in the form appended to Notification No. 1555, dated 30th September 1881.—(*Notification No. 100, dated 24th January 1883, Gazette of India of 27th idem, Part I, p. 35*).

For form of license to possess arms or ammunition and go armed in Burma, see No. 927, dated 4th May 1883, *Gazette of India* of 5th idem, Part I, p. 199, and No. 2359, dated 6th September 1888, *Gazette of India* of 8th idem, Part I, p. 407.

(c). For rules made under this section see Note (a) at end of Act.

(d). Under this section licenses to import arms, &c., into Aden are declared subject to certain conditions.—*See Government of India Notification No. 1016, dated 26th May 1879*.

Cancelling and suspension of license.

18. Any license may be cancelled or suspended—

(a) by the officer by whom the same was granted, or by any authority to which he may be subordinate, or by any Magistrate of a District or Commissioner of Police in a presidency-town, within the local limits of whose jurisdiction the holder of such license may be, when, for reasons to be recorded in writing, such officer, authority, Magistrate, or Commissioner deems it necessary for the security of the public peace to cancel or suspend such license; or

(b) by any Judge or Magistrate before whom the holder of such license is convicted of an offence against this Act, or against the rules made under this Act; and

the Local Government may at its discretion by a notification in the local official Gazette cancel or suspend all or any licenses throughout the whole or any portion of the territories under its administration.

#### VI.—Penalties.

For breach of Sections 5, 6, 10, 13 to 17

19. Whoever commits any of the following offences (namely):—

(a) manufactures, converts, or sells, or keeps, offers, or exposes for sale, any arms, ammunition, or military stores in contravention of the provisions of section five;

(b) fails to give notice as required by the same section;

(c) imports or exports any arms, ammunition, or military stores in contravention of the provisions of section six;

(d) transports any arms, ammunition, or military stores in contravention of a regulation or prohibition issued under section ten;

(e) goes armed in contravention of the provisions of section thirteen;

(f) has in his possession or under his control any arms, ammunition, or military stores in contravention of the provisions of section fourteen or section fifteen;

(g) intentionally makes any false entry in a record or account which by a rule made under section seventeen, clause (c), he is required to keep;

(h) intentionally fails to exhibit anything which by a rule made under section seventeen, clause (e), he is required to exhibit; or

(i) fails to deposit arms, ammunition, or military stores, as required by section fourteen or section sixteen,

shall be punished with imprisonment for a term which may extend to three years or with fine, or with both.

20. Whoever does any act mentioned in clause (a), (c), (d) or (f) of section nineteen, in such manner as to indicate an intention that such act may not be known to any public servant as defined in the Indian Penal Code, or to any person employed upon a Railway, or to the servant of any public carrier,

and whoever, on any search being made under section twenty-five, conceals or attempts to conceal any arms, ammunition, or military stores,

shall be punished with imprisonment for a term which may extend to seven years, or with fine, or with both.

21. Whoever, in violation of a condition subject to which a license has been granted, does, or omits to do, any act, shall, when the doing or omitting to do such act is not punishable under section nineteen or section twenty, be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

22. Whoever knowingly purchases any arms, ammunition, or military stores from any person not licensed or authorized under the proviso to section five to sell the same ;

or delivers any arms, ammunition, or military stores into the possession of any person without previously ascertaining that such person is legally authorized to possess the same,

shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

23. Any person violating any rule made under this Act, and for the violation of which no penalty is provided by this Act, shall be punished with imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both.

24. When any person is convicted of an offence punishable under this Act committed by him in respect of any arms, ammunition, or military stores, it shall be in the discretion of the convicting Court or Magistrate further to direct that the whole or any portion of such arms, ammunition, or military stores, and any vessel, cart, or baggage animal used to convey the same, and any box, package, or bale in which the same may have been concealed, together with the other contents of such box, package, or bale, shall be confiscated.

#### VII.—Miscellaneous.

25. Whenever any Magistrate has reason to believe that any person residing within the local limits of his jurisdiction has in his possession any arms, ammunition, or military stores for any unlawful purpose,

or that such person cannot be left in the possession of any such arms, ammunition, or military stores without danger to the public peace,

such Magistrate, having first recorded the grounds of his belief, may cause a search to be made of the house or premises occupied by such person, or in which such Magistrate has reason to believe such arms, ammunition, or military stores are or is to be found, and may seize and detain the same, although covered by a license, in safe custody for such time as he thinks necessary.

The search in such case shall be conducted by, or in the presence of, a Magistrate, or by or in the presence of some officer specially empowered in this behalf by name or in virtue of his office by the Local Government.

26. The Local Government may at any time order or cause to be seized any arms, ammunition, or military stores in the possession of any person, notwithstanding that such person is licensed to possess the same, and may detain the same for such time as it thinks necessary for the public safety.

Power to exempt.

27. The Governor-General in Council may, from time to time, by notification published in the *Gazette of India*,—

(a) exempt any person by name or in virtue of his office, or any class of persons, or exclude any description of arms, or ammunition, or withdraw any part of British India, from the operation of any prohibition or direction contained in this Act; and

(b) cancel any such notification and again subject the persons or things, or the part of British India, comprised therein to the operation of such prohibition or direction.

NOTES.—(a). Under Section 27 of the Indian Arms Act, 1878, the Governor-General in Council is pleased to exempt from the prohibitions and directions contained in Section 6 of the said Act, such arms, ammunition, and military stores brought into an Indian port, as may be declared under manifest to be consignments, without transhipment, to another port, provided such other port be not situate on the coast of India, between the most westerly point of India and the most southerly point of British Burma, and provided such port be not a foreign port on the eastern sea board of Africa

This exemption will become void in the event of any of the articles claiming such exemption being landed at, or transhipped in the port into which they may have been brought.—(*Government of India Notification No. 1572, dated 29th August 1879*).

(b). In continuation of Notification No. 1572, dated the 29th August 1879, it is hereby declared that, under Section 27 of the Indian Arms Act, 1878, the Governor-General in Council is pleased to exempt from the prohibitions and directions contained in Section 6 of the said Act, such arms, ammunition, and military stores brought into an Indian port as may be declared under manifest to be consignments without transhipment to another Indian port, provided that the port to which such arms, ammunition, or military stores are consigned is one of the ports named in Rule 6 of the Rules published under Home Department Notification No. 518, dated 6th March 1879.

This exemption will become void in the event of any of the articles claiming such exemption being landed at, or transhipped in, any port other than that to which the articles are consigned.—(*Government of India Notification No. 75, dated 14th January 1880*).

(c). The notification of the Home, Revenue, and Agricultural Department, No. 1560, dated the 1st October, 1880, is cancelled from this date. Arms, ammunition, and military stores brought into an Indian port, and declared under manifest to be consignments without transhipment to any port on the Sea-board of the Persian Gulf, will, in terms of the Notification of the Home Department, No. 1572, dated 29th August 1879, be exempt until further orders from the prohibitions and directions contained in Section 6 of the Indian Arms Act, 1878.—(*Government of India Notification No. 361, dated 8th March 1882*)

(d). The Governor General in Council is pleased, under Section 27, to exempt from the operation of all prohibitions and directions contained in Sections 13, 14, 15, and 16 of "The Indian Arms Act, 1878," other than those referring to cannon, articles designed for torpedo service, war rockets, and machinery for the manufacture of arms and ammunition, such subordinate officials of the Geological Survey of India as may from time to time be authorised by the Superintendent of the Geological Survey to possess or carry arms, the number and description of which should be specified in each case.—(*Government of India Notification No. 1385, dated 6th September 1880*).

(e). Kukris are excluded from the prohibitions, &c, contained in the Act as far as regards the districts of Kumaunt and Garhwal in the N. W P.—(*Government of India Notification No. 1010, dated 23rd May 1879*).

(f). Europeans residing in Pondicherry are exempted from import duty on guns for sporting purposes when holding a pass from their own authorities.—(*Government of India Notification No. 2257, dated 15th December 1879*).

(g). The district of Ajmer-Merwar, withdrawn from the operation of all prohibitions and directions contained in Sections 13 and 14, except in so far as they relate to cannon.—(*Government of India Notification No. 140 I. J., dated 11th June 1879*).

(h). The Mahals of Angal and Banki in Lower Bengal have been similarly exempted.—(*Government of India Notification No. 2366, dated 31st December 1879*).





the Foreign Department, be granted by the Political Resident at Aden (No. 2643, dated 5th October 1888, *Gazette of India of 6th idem*).

See also Nos 4442 I, 4444 I, and 4447 I, dated 7th November 1888, *Gazette of India of 10th idem*, Part I, p 517

The following personal exemptions have been notified : —

1. The Oudh retainers of the Maharaja of Kapurthala — (*Government of India Notification No. 1008, dated 23rd May 1879*).

2. Retainers of the Raja of Rampure, Jalaun District, N.-W. P. — (*No. 1239, dated 18th July 1879*).

3. Shahzada Ahmed Hallcem-uz-Zuman and others — (*No. 127, dated 22nd January 1880*).

4. Retainers of the Maharaja of Bahawalpur Azam District, N.-W. P. — (*No. 595, dated 16th April 1880*).

5. Retainers of Raja Sir Dinkar Rao, K. C. S. I. — (*No. 1826, dated 6th December 1880*).

6. Retainers of Raja Tilok Singh of Katiani in the Hardoi district, Oudh — (*No. 795 dated 16th June 1881*).

7. Retainers of Raja Sirdar Singh of Katehra in the Jhansi district — (*No. 944, dated 7th July 1881*).

8. Retainers of Raja Shooraj Singh of Kashiwar — (*No. 1218, dated 23rd August 1881*).

See also Note (a) at the end of the Act

**28.** Every person aware of the commission of any offence punishable under this Act shall, in the absence of reasonable excuse, the burden of proving which shall lie upon such person, give information of the same to the nearest police-officer or Magistrate, and

every person employed upon any railway or by any public carrier shall, in the absence of reasonable excuse, the burden of proving which shall lie upon such person, give information to the nearest police-officer regarding any box, package, or bale in transit which he may have reason to suspect contains arms, ammunition, or military stores in respect of which an offence against this Act has been or is being committed.

**29.** Where an offence punishable under section nineteen, clause (f), has been committed within three months from the date on which this Act comes into force in any province, district, or place to which Section 32, clause 2 of Act XXXI of 1860 applies at such date, or where such an offence has been committed in any part of British India not being such a district, province, or place, no proceedings shall be instituted against any person in respect of such offence without the previous sanction of the Magistrate of the District, or, in a Presidency-town, of the Commissioner of Police.

**30.** Where a search is to be made under the Code of Criminal Procedure or the Presidency Magistrates Act, 1877, in the course of any proceedings instituted in respect of an offence punishable under section nineteen, clause (f), such search shall, notwithstanding anything contained in the said Code or Act, be made in the presence of some officer specially appointed by name or in virtue of his office by the Local Government in this behalf, and not otherwise.

**31.** Nothing in this Act shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence against this Act or the rules made under it, or from being liable under such other law to any higher punishment or penalty than that provided by this Act: Provided that no person shall be punished twice for the same offence.

32. The Local Government may from time to time by notification in the local official Gazette direct a census to be taken of all fire-arms in any local area, and empower any person by name or in virtue of his office to take such census.

On the issue of any such notification, all persons possessing any such arms in such area shall furnish to the person so empowered such information as he may require in reference thereto, and shall produce such arms to him if he so requires.

Any person refusing or neglecting to produce any such arms when so required, shall be punished with imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees or with both.

33. No proceeding other than a suit shall be commenced against any person for any thing done in pursuance of this Act, without having given him at least one month's previous notice in writing of the intended proceeding and of the cause thereof, nor after the expiration of three months from the accrual of such cause.

#### THE FIRST SCHEDULE.

Number and year.	Title.	Extent of repeal.
XVIII of 1841	An Act for consolidating and amending the enactments concerning the exportation of Military Stores.	So much as has not been repealed.
XXX of 1854	An Act to provide for the levy of Duties of Customs in the Arracan, Pegu, Martaban, and Tenasserim Provinces.	In the preamble the words "and that the exportation of munitions of war from any of these Provinces into foreign States should be prohibited." Section 11.
XXXI of 1860	An Act relating to the manufacture, importation, and sale of Arms and Ammunition, and for regulating the right to keep and use the same, and to give power of disarming in certain cases.	So much as has not been repealed
VI of 1866	An Act to continue Act No. XXXI of 1860 (relating to the manufacture, importation and sale of Arms and Ammunition, and for regulating the right to keep and use the same, and to give power of disarming in certain cases), and for other purposes.	The whole.
III of 1872	The Santhal Parganas Settlement Regulation	So much of the schedule as relates to Act XXXI of 1860 and Act VI of 1866.
IX of 1874	The Arakan Hills District Laws Regulation, 1874.	So much of the schedule as relates to Act XVIII of 1841.
XV of 1874	An Act for declaring the local extent of certain Enactments, and for other purposes.	So much of the first schedule as relates to Act XVIII of 1841.



## THE SECOND SCHEDULE

*Repealed by Act XI of 1882*

**NOTES.**—(a) —In continuation of Notification No 9 dated 2nd January 1879, the following revised edition of the notification and rules made by the Governor General in Council under "The Indian Arms Act, 1878," is published. The revised rules will take effect from the date of publication. The forms cited in these rules are precisely the same as those previously published.

I.—The Governor General in Council is pleased, under Section 27, to exempt from the operations of all prohibitions and directions contained in Sections 13, 14, 15 and 16 of "The Indian Arms Act, 1878," other than those referring to cannon, articles designed for torpedo service, war rockets, and machinery for the manufacture of arms and ammunition, the under-mentioned persons, namely, —

(1) all Maharajahs, Rajahs, Nawabs, Members of any order of Knighthood, all persons bearing a title conferred by the Government of India, all persons who have been granted a sword in public Durbar, all persons who received certificates on the 1st January 1877; all persons who are exempted from personal attendance at Civil Courts,

(2) all Members or ex-Members of the Council of the Governor-General, or of the Governors of Madras or Bombay, or of the Council of the Lieutenant-Governor of Bengal,

(3) all military and naval officers, all soldiers, sailors, volunteers, police officers, forest officers, postal officers, jail officers, serving the Government,

(4) all Magistrates, Justices of the Peace, Honorary Magistrates, and judicial officers of or above the rank of Munsif, and officers of the Public Works Department of and above the rank of Assistant Engineer, †

(5) all European and East Indian subjects of Her Majesty the Queen Empress, all Armenians, and all Americans and Europeans not British born subjects of Her Majesty who are temporarily residing or travelling in India,

(6) all Consuls, Consular Agents, all duly accredited Vakeels or Agents of Native States;

(7) all Ruling Chiefs on the occasions of their entering, or residing in, British India, with their retinues, to such number as may in each case be settled by the political officer under the orders of the Foreign Department or of the Madras and Bombay Governments in respect to Chiefs whose political relations are with those Governments respectively, and all officials of such Chiefs passing through British India on duty,

(8) all pensioned officers of the Native Army, and pensioned officers of civil departments who, when employed, were exempt,

(9) the following personages and their retainers—

(a) the ancient zemindars and poligars of the Madras Presidency;

(b) the Deccan and Southern Mahratta Sirdars;

(c) the Maharajah of Bulrampore, K C S I

the Maharajah of Benares,

the Rajah of Gursahai,

the Rajah of Jagmanpore;

the Rao of Gopalpuria,

\* i The Governor-General in Council is pleased under Section 27 of the Indian Arms Act, 1878, to modify as follows the exemptions made in Notification No 518, dated 6th March 1879.—

(a) Clause (3) of the exemptions made by the aforesaid Notification is cancelled, so far as regards the Punjab

(b) Clause (8) of the same exemptions shall, so far as regards the Punjab, run as follows.—

"(8) All commissioned officers of the Native Army, pensioned or on active service; pensioned officers of the Civil Department, who when actively employed were exempt; and all non-commissioned officers and men of the Native Army under the circumstances provided for, and subject to the conditions prescribed in Section 12, paragraphs 71, 72, 73, 74, and 77 of the Bengal Army Regulations"—(Government of India Notification No 1168, dated 23rd July 1880).

\* ii The Governor General in Council is pleased under Section 27 of the Indian Arms Act, XI of 1878, to modify as follows the exemptions made in Home Department Notification No 1168, dated 23rd July 1880 —

Clause (3) of the exemptions made by Notification No 518, dated 6th March 1879, shall apply to the Punjab so far as it relates to Military and Naval Officers, soldiers, sailors and volunteers serving the Government

(No 1946, dated 16th November 1886, Gazette of India of 10th idem)

† See No. 167, dated 12th November 1883, Gazette of India of 17th idem.

- (d) the great Sardars and Jagirdars of the Punjab;
- (e) the zemindars of the scheduled districts in the Central Provinces;
- (f) the great zemindars of Bengal;

subject to such orders as the respective Local Governments may issue regarding persons to be included in these categories, or the number of retainers in each case ; \*

(10) landholders and members of Municipal Committees of approved loyalty and of good position, according to lists that may from time to time be issued by the respective Local Governments ;

† (11) all heads of villages, ghatwals, dighwars, and other rural police, in respect of such arms as the Local Government may from time to time notify to be necessary for the discharge of their police duties ; \*

\*\* (12) all Theogyes, Yazawut-gaungs, Kyadangees in British Burma ;

(13) all persons of Coorg race, and all jumma tenure-holders in Coorg who by their tenures are liable for police and military duties ;

(14) all subjects of the Baroda State who may transport arms or ammunition from one part of Baroda territory to another part of the same territory, under a license granted by the Resident or Assistant Resident of Baroda ;

(15) all revenue officials and postal runners in frontier or wild districts, where the superior departmental officers direct them to carry arms on duty.

II.—The Governor-General in Council is pleased, under Section 27, to exclude from the operation of any prohibition and direction contained in the Act—

(a) spears of all kinds so far as regards the Presidency of Madras ;

(b) weapons known as *kukris* and *dhaos*, so far as regards the Lieutenant-Governorship of Bengal ;

(c) weapons known as *dhars* so far as regards the Chief Commissionership of British Burma ;

(d) swords, daggers, spears, *kukris*, *dhaos*, so far as regards the Chief Commissionership of Assam ;

(e) bows and arrows ; and

(f) spears of all kinds in Bengal, so far as regards districts or parts of districts which the Local Government may declare to come within this exemption.

III.—The Governor-General in Council is pleased, under Section 27, to withdraw from the operation of prohibitions and directions contained in the Act certain tracts as follows :

(a) all scheduled districts in the Madras Presidency from all prohibitions and directions, save in respect to rifled arms and cannon, and except those directions contained in Sections 12 and 25 ;

(b) the Chittagong Hill Tracts of Bengal from the prohibitions and directions contained in Sections 13 and 14 ;

† (c) all scheduled districts in the Lieutenant-Governorship of the Punjab, except Hazara, and also certain tracts and villages on the Hazara frontier specially notified by the Local Government, from all prohibitions and directions contained in Sections 13 and 14 ;

(d) the Arracan Hill Tracts of British Burma from the prohibitions and directions contained in Sections 13 and 14 ; and

† (c). Clause (11) of the same exemptions is cancelled, so far as regards the Punjab.—(Government of India Notification No. 1168, dated 23rd July 1880).

\* See No. 371, dated 18th February 1887, *Gazette of India* of 19th idem.

\*\* In exercise of the powers conferred by Section 27 (b) of the Indian Arms Act, 1878, the Governor-General in Council is pleased to cancel so much of this Department Notifications Nos. 518, dated the 6th March, 1879, and 544, dated the 9th April 1886, as exempts the under-mentioned classes of persons in Burma from the operation of the prohibitions and directions contained in Sections 13, 14, 15, and 16 of the Indian Arms Act, 1878, and again to subject them to the operation of those prohibitions and directions :

- (1) Forest Officers.
- (2) Postal Officers.
- (3) Thugyas.
- (4) Yazawut-gaungs.
- (5) Deputy Inspectors of Schools.

(No. 971, dated 11th May 1888, *Gazette of India* of 12th idem, Part I, p. 213).

† See Punjab Government Notification No. 2460, dated 3rd July 1879 (*Punjab Gazette* of 10th idem) for list of villages on the border of the Hazara district to which the prohibitions and directions contained in Sections 13 and 14 do not apply.

in the North-Western Provinces, the districts of the Jhansi Division and the parts of the Mirzapore District on the right bank of the River Son, from the prohibitions and directions contained in Section 14.

\* —The Governor-General in Council is pleased to extend—

(a) all sections of the said Act to sulphur in quantities exceeding, in Burma, one seer and elsewhere throughout British India, ten seers; §

(b) Sections 6, 10, 11, 12, 17, 19, 20, 22, 24, 25, 26, and 28 of the said Act to all saltpetre and lead (except sheet lead used for the purpose of packing tea) in all districts on the external land frontier of British India and throughout Burma; ¶ and

\* See No. 508, dated 1st March 1888, *Gazette of India* of 3rd idem, Part I, p 101

§ In modification of Home Department Notification No. 1617, dated the 7th October 1881, the Governor-General in Council is pleased to declare that licenses for the importation, possession, or transport of sulphur, proved to the satisfaction of the Local Government or Administration concerned to be intended only for *bonâ fide* medicinal, manufacturing, or agricultural purposes, may be granted without payment of any fee.—(*Government of India Notification No. 1194, dated 7th August 1882*)

With reference to Home Department Notification No. 1194, dated the 7th August 1882, it is hereby notified for general information that the concession therein allowed whereby licenses for the importation, possession, or transport of sulphur, proved to the satisfaction of the Local Government or Administration concerned to be intended for *bonâ fide* medicinal, manufacturing, or agricultural purposes, may be granted without payment of any fee, does not extend to sulphur intended for the manufacture of gunpowder or of ammunition generally as defined in Section 4 of the Indian Arms Act, 1878 (Act No. XI of 1878).—(*Government of India Notification No. 1940, dated 11th December 1882*).

¶ i. Under the provisions of Section 17 of the Indian Arms Act, 1878, and with reference to paragraph IV (b) of Home Department Notification No. 518, dated the 6th March 1879, the Governor-General in Council is pleased to make the following rule regarding the grant of licenses for the importation or transport of lead in all districts on the external land frontier of British India and in the sea-board districts of British Burma, when such lead is required for manufacturing or industrial purposes:—

**Rule**—Licenses may be granted to persons without payment of any fee in all districts on the external land frontier of British India and in the sea-board districts of British Burma, entitling the holder to import or transport lead in reasonable quantities, when the same is proved to the satisfaction of the officer granting the license to be required *bonâ fide* for manufacturing or industrial purposes.—(*Government of India Notification No. 1882, dated 29th November 1882*)

ii. Under the provisions of Section 17 of the Indian Arms Act, 1878, and in continuation of Home Department Notification No. 1882, dated the 29th November 1882, the Governor-General in Council is pleased to make the following Rule regarding the grant of licenses for the possession of lead throughout Burma:

**Rule**.—Licenses may be granted by District Magistrates to persons without payment of any fee throughout Burma entitling the holder to possess lead in reasonable quantities when the same is proved to the satisfaction of the officer granting the license to be required *bonâ fide* for manufacturing or industrial purposes. This Rule does not authorise the grant of licenses for the possession of lead intended for the manufacture of ammunition.—(*No. 2640, dated 3rd October 1888, Gazette of India of 6th idem*).

iii. Under the provisions of Section 17 of the Indian Arms Act, 1878, and with reference to paragraph IV (b) of Home Department Notification No. 518, dated the 6th March 1879, the Governor-General in Council is pleased to make the following rule regarding the grant of licenses for the importation or transport of saltpetre in all districts on the external land frontier of British India and in the sea-board districts of British Burma, when such saltpetre is required for manufacturing, medicinal or industrial purposes:—

**Rule**.—Licenses may be granted to persons without payment of any fee in all districts on the external land frontier of British India and in the sea board districts of British Burma entitling the holder to import or transport saltpetre in reasonable quantities, when the same is proved to the satisfaction of the officer granting the license to be required *bonâ fide* for manufacturing, medicinal or industrial purposes.—(*No. 1365, dated 14th September 1883, Gazette of India of 15th idem*).

iv.—In exercise of the powers conferred by Section 4 of the Indian Arms Act, 1878, and in continuation of Home Department Notification No. 508, dated the 1st March, 1888, the Governor-General in Council is pleased to extend Sections 5, 7, 14, and 16 of the said Act to all saltpetre and lead (except sheet lead used for the purpose of packing tea) throughout Burma.—(*No. 2639, dated 3rd October 1888, Gazette of India of 6th idem*).

(c) all sections of the said Act to all saltpetre and lead in the district and ~~port~~ of Aden.

V.—The Governor-General in Council is pleased, under Section 11, to sanction the establishment of searching stations, under Section 11, at—

(a) the land customs-houses near the boundary line between British India and the French Settlements on the Eastern and Western coasts and the Portuguese Settlements on the Western coast;

(b) Allamyo near the external boundary line between British India and the Kingdom of Upper Burma

The Governor-General in Council is pleased, under Section 9, to direct that at the said land customs-houses the duties specified in the second Schedule shall be levied.

VI.—The Governor-General in Council is pleased, under Section 17, to make the following rules determining the officers by whom, the form in which, and the terms and conditions on and subject to which licenses shall be granted:

#### RULES.

##### TRANSPORT, IMPORT, AND EXPORT.

1. No cannon, articles designed for torpedo service, war-rockets, or machinery for the manufacture of arms and ammunition, shall be imported into British India, or transported over any part of British India without a license granted by the Governor-General in Council under the signature of the Secretary to the Government of India in the Home Department. The license shall be in Form I, appended to these rules, and a copy shall be at once communicated to the Magistrate of the District, or to the Political Officer of the State to which the articles are consigned.

2. No arms, or ammunition, or military stores, shall be transported in any part of British India without a license in Form II, appended to these rules. If the articles are despatched from Calcutta, Madras or Bombay, the license will be granted by the Commissioner of Police; in all other cases the license will be granted by the Magistrate of the District. If the articles are to be consigned to a place beyond the jurisdiction of the officer granting the license, the consent of the Magistrate of the District to which the consignment is made must be obtained before the license is issued. Such consent may be obtained by the person applying for the license; or the Police Commissioner, or District Magistrate, to whom application for the license is made, may forward the proposed license to the officer whose consent is required; and on receiving reply should either issue the license to the applicant, or inform him that his application for a license to transport arms, &c., had been refused. \* The fee payable in respect of every such license shall be ten rupees.

3. Persons lawfully entitled to possess arms, or to go armed, are permitted to transport, in any part of British India, arms, or ammunition in reasonable quantities for their own use. Any person abusing this exemption and transporting such articles otherwise than in reasonable quantities for his own use will be held to have contravened this rule, and will, on conviction, become liable to the penalties under Sections 18 and 19.

|| The Inspector-General of Police has drawn the attention of the Punjab Government to the fact that the provision of rule 2 of the rules for the regulation of the transport of arms and ammunition published under notification of the Government of India's No. 518, dated 6th March 1879, which requires that no transport license shall be issued without previous consent of the Magistrate of the District to which the consignment is made, is not always observed.

2. The Lieutenant-Governor therefore takes this opportunity of drawing the attention of all Magistrates of Districts to this point, and to the necessity of acting up to all the rules regulating the transport of arms and ammunition in the most exact and strict manner. All dealers in arms should be warned that neglect to comply with the above provision of rule 2 renders them liable to imprisonment and fine as provided under Section 19 of the Arms Act; and any case in which arms or ammunition are transported, without the consent of the Magistrate of the District to which they are brought, should be reported through the Commissioner for the information of the Local Government.—(Punjab Government Circular No. 17-2829, dated 27th August 1880).

\* See Government of India Notification No. 114, dated 25th January 1883.

\* 3 A. A person licensed to possess arms, ammunition, or military stores, or who is exempted from the liability to take out such a license, is entitled to transport to his residence, from the premises of a licensed dealer, arms, ammunition, or military stores without a separate transport license, so long as the articles purchased are in reasonable quantity and for his own use. A licensed dealer in arms, ammunition and military stores may supply the order of any such person, and may without a separate transport license send or despatch, in any way desired, to the residence of the purchaser the articles ordered by any such person so long as they fulfil the requirements of Rule 3, and are legibly addressed to the person for whom they are intended.

4. A license to transport arms or ammunition or military stores is void if the consignment breaks bulk at any place short of the district for which it may be granted. A license to transport shall ordinarily not be made valid for more than twice the period actually required for the conveyance of the articles to their destination by the intended route.

\*\* 5 No license shall be granted save by the special order of the Governor-General in Council, testified under the signature of the Secretary to the Government of India in the Home Department, for the exportation from British India, by sea, of any cannon, or of any rifles or parts of or fittings for rifles, except rifles or parts of or fittings for rifles of such quality, or in such quantity, as may reasonably be held to be intended for *bona fide* sporting purposes.

\*\*\* 6 Licenses to import or export arms, other than cannon or rifles not excepted as in the next foregoing rule, ammunition, or military stores by sea, may be granted at the ports of Calcutta, Madras, Bombay, Rangoon, Calicut, Kurrachee, Aden, and for no other ports. They shall be granted by the Commissioners of Police in respect of each Presidency Town, and by the Magistrate of the District in respect of Rangoon and Kurrachee. The fee payable in respect of each such license shall be ten rupees, and the licenses shall be in the Forms III and IV appended to these rules. It shall be a condition of such licenses that the arms and ammunition imported shall either be deposited in a warehouse sanctioned in this regard under Section 7 of the Indian Arms Act, or that they shall be at once despatched to their destination under a separate license to transport.

† 6A—In the case of arms, other than cannon or rifles not excepted as in Rule 5, ammunition, or military stores imported under license into a British port and exported thence to another British port named in Rule 6 or in Rule 6 B the necessary licenses for such re-export and import may be granted on payment of a fee of one rupee (each) instead of ten rupees. Such licenses shall be in Forms III and IV appended to these Rules.

† 6B—Licenses to import by sea from Rangoon into the ports of Akvab, Moulmein, Sando-way, Kyaukphyoo, Tavoy, and Mergui may be granted by the Magistrates of the Districts in which those ports are respectively situated, in respect of arms other than cannon or rifles not excepted by Rule 5 ammunition, or military stores. The fee payable in respect of each such license shall be one rupee, and the license shall be in Form III appended to these Rules.

† 6C Licenses to import into British India, by land or river, arms (other than arms for which the Governor-General in Council is to issue licenses under Rule 5), ammunition, or military stores, may be granted by the Magistrate of the district to which such arms, ammunition or military stores are consigned; or if such arms, ammunition, or military stores are consigned to a Presidency Town, by the Commissioner of Police. The fee payable in respect of each such license shall be Rs 5; but officers granting such licenses are empowered to remit the fee when the arms, ammunition, or military stores are of a reasonable quantity and such officers are satisfied that they are required *bona fide* for purposes of protection of person or property. In the case of arms, ammunition or military stores imported from a Native State, a copy of the license shall be sent by the officer granting it to the Political Officer of the State from which they are to be imported. If the district to which the arms, ammunition, or military stores are consigned, is other than a frontier district, and they are to cross the frontier by road or river, a copy of the license shall also be sent to the Magistrate of the frontier district who shall, if he thinks necessary before permitting the arms, ammunition, or military stores to leave his district, require the holder of the license to produce them for his inspection. In cases in which the arms, ammunition, or military stores are to cross the frontier by rail, a copy of the license shall be sent to the Railway authorities at the place to which the arms, ammunition, or military stores are to be conveyed by Railway. The Railway authorities shall in every such instance satisfy themselves before delivery that the arms, ammunition or military stores claimed by any consignee correspond with the description given in the original license, which must be produced by him, and also that the license is identical in substance with the copy sent to them by the officer granting it. If the license is not produced, or the arms, ammunition, or military stores claimed do not correspond with the description in the license, the Railway authorities shall give immediate notice of the fact to the nearest Magistrate. Nothing in this rule applies to import into the district of Ajmere.

\* Added by Government of India Notification No. 474, dated 22nd February 1882.

\*\* Amended by Government of India Notification No. 1842, dated 10th October 1879.

\*\*\* See Notes (a) and (o) to Section 27.

† Added by Government of India Notification No. 1601, dated 30th August 1879.

† Added by Government of India Notification No. 865, dated 8th June 1882.

The licenses shall be prepared in the following form :—

FEE FIVE RUPEES IN STAMPS.

*License to import arms, ammunition, or military stores by river or land.*

Name and residence of license-holder and agent, if any.	Number of packages.	ARMS.		AMMUNITION OR MILITARY STORES.		Place of despatch and route.	Purpose for which con- signment is required.	Destination.	Number and residence of consignee.	Period for which license is valid.
		Description.	Number.	Description.	Weight or Number.					
										From the      of to the      of 18      18

(Signature)

Seal.

The

1881.

Magistrate of the      or      District,  
Commissioner of Police.

*Endorsements to be printed on the reverse of the above form :—*

This license is valid only for the period and the route named herein.

It becomes invalid if bulk is broken, or the consignment stopped, at any place on the journey.

It is given subject to the provisions of the Indian Arms Act, 1878, and of the rules framed thereunder.

The contents of each package covered by this license shall be described in legible characters on the outside of such package.

This license must be delivered to the District Magistrate or the Commissioner of Police when the articles covered by it reach their destination. In the cases of consignments crossing the frontier by road or river, the article must, within six days of their reaching British territory, be available for exhibition to the frontier Magistrate, or other officer whom he may empower in this behalf. In case of consignments crossing the frontier by rail this license must be shown to the Railway authorities of the station of delivery.

\* 7. Licenses to export arms or ammunition or military stores by land or by river to any place beyond the frontier of British India, or to any place within the limits of the feudatory

\* (a).—Amended by Government of India Notification No. 1892, dated 25th November 1881.

(b).—The following Resolution of the Government of India on the subject of export of arms and ammunition from British territory to Native States, is published for general information.

The special attention of Political Officers is drawn to the last clause of paragraph 2. The copies of the licenses granted will be forwarded to the Government of India, through the Local Government :—

No. 117 I. P., dated 31st January 1880.

*Extract from the Proceedings of the Government of India in the Foreign Department.*

READ—

A Notification of the Government of India, in the Home Department No. 518, dated 6th March 1879, publishing revised rules under the Indian Arms Act, 1878.

RESOLUTION.—Under the provisions of Section 4 of the Arms Act, 1878, published in the Home Department Notification No. 518, dated 6th March, 1879, the Government of India, through the

States, and licenses to import arms or ammunition or Military stores into, or to export the same out of, the district of Ajmere, may be granted by the Secretary to the Government of India in the Foreign Department, or by any other officer specially empowered by the Government of India to grant them.

Licenses to export arms or ammunition or military stores by land or by river to any place within the political jurisdiction of the Government of Madras and Bombay, may be granted by the Secretaries to the Governments of Madras and Bombay respectively, copies of such licenses being sent to the Foreign Department of the Government of India for information. These licenses will be valid only for the State named in them, and no export beyond the limits of that State can be permitted under them.

Licenses granted under this rule will be prepared in Form V, and be charged with a fee of rupees five, except in such cases as the Government of India in the Foreign Department may grant exception from, or reduction of, the prescribed fee. Licenses to import arms, ammunition or military stores into Ajmere will also be granted in Form V, the word export in the heading of the license being changed into import.

Copies of such licenses shall be sent on the day of issue to the Political Officer of the State to which the articles are to be exported, and in the case of imports into Ajmere, to the Commissioner of the district. Copies shall also be sent to the Magistrate of the frontier district, if the articles are to cross the frontier by road or river. If the articles are to be carried across the frontier by rail, a copy of the license should, in the case of consignments despatched from Presidency Towns, be sent to the Commissioner of Police, and in other cases to the Magistrate of the district from which articles are to be despatched. In such cases the Commissioner of Police, or the Magistrate of the District, as the case may be, should at once forward a copy of the license to the Railway authorities at the place of despatch. No Railway Company shall receive for despatch any box, package, or bale containing arms, ammunition, or military stores as defined in the Arms Act and the rules framed thereunder, unless covered and accompanied by the original license granted under these rules, and the Railway authorities shall in every instance satisfy themselves that the goods tendered to them for transport correspond to the description given in such license, and that the license is identical with that forwarded to them by the Commissioner of Police or Magistrate of the District.

† 7A. Nothing in Rule 5, 6, 6C or 7 shall be deemed to authorise the grant of licenses—

(a) to import any arms, ammunition or military stores from Portuguese India;

(b) to export to Portuguese India by sea, river, or land, any arms, ammunition, or military stores, except the same be exported for the exclusive use of the Government of Portuguese India, or are covered by a special license for import into Portuguese India signed by the Secretary-General to the Government of Portuguese India.

8. Persons desirous of transporting, importing by land or river, or exporting arms, ammunition, or military stores, must apply in writing to the nearest officer authorised to grant such licenses. The application must specify—

(a) the place to which the articles are to be transported, imported, or exported; the route of transport, import, or export, and the probable time that will be occupied in the journey;

(b) the quantity, description, average price, and the purpose of each kind of arms or ammunitions; or

(c) in the case of transport or export, whether the applicant has obtained the consent of the Magistrate or Political Officer of the place of consignment. [If so, the evidence of such consent must be produced]

Council is pleased to authorize all Political Officers to grant licenses to the Native Chiefs under their charge, for the export of arms and ammunition from British territory in reasonable quantities for their personal use.

2. Such licenses will of course be granted after due enquiry, where necessary, and it will be within the discretion of the Local Governments, to whom the Political Officers are subordinate, to decide whether in particular cases a previous reference to them should not be required. The object of this Resolution is merely to remove any unnecessary difficulties in the way of the supply to Chiefs of ordinary sporting ammunition.

In all cases copies of the licenses granted under this order should be forwarded to the Foreign Department of the Government of India for information.—(*Punjab Government Notification No. 301, dated 21st February 1880*).

(c). See also Government of India Circular No. 2670, E. P., dated 12th November 1881, published as Punjab Government Notification No. 4287 A, dated 24th November 1881 (*Punjab Gazette of 1st December*).

Rules 7 A to 10 are as prescribed by Government of India Notification No. 866, dated 8th June 1882.

9. Persons transporting, importing by land or river, or exporting arms, ammunition or military stores under a license, must give legibly on the cases or packages containing such articles an account of their contents.

10. In the case of transport, or import by land or river, the consignee must, within six days of the articles reaching their destination, deliver the transport or import license to the Magistrate of the District, or, in the case of a Presidency Town, to the Commissioner of Police. In the case of articles crossing the frontier of British India by road or river—

(1) the export license must, within six days of the consignment reaching the frontier district, and before it leaves British territory, be delivered to the Magistrate of the frontier district or other officer empowered by him on this behalf;

(2) the import license must, within six days of the consignment entering British territory, be shown to the Magistrate of the frontier district, or other officer empowered by him on this behalf.

The officer to whom the transport, import, or export license, as the case may be, may be delivered, must satisfy himself that the articles correspond with the entries in the license, and that any deficiency is properly accounted for.

#### MANUFACTURE AND SALE.

11. Licenses to manufacture, convert, keep, and sell arms or ammunition or military stores, may be granted by Commissioners of Police in the Presidency Towns, and by the Magistrate of the District outside those towns. They shall be in Forms VI and VII appended to these rules. The fee payable in stamps shall be twenty rupees in respect of licenses to manufacture and sell, &c., and ten rupees in respect of licenses to keep and sell, &c. Every license-holder under this rule, shall keep, in such form as the Local Government may from time to time direct, a record and account of all stock, and of all sales of arms and ammunition or sulphur, which he may keep or sell. He shall exhibit his stock and his record, or accounts, of stock and sales to any Magistrate, or to any police officer not below the rank of Inspector. Magistrates and all police officers not below the rank of Inspector are hereby empowered to enter and inspect any premises within their several jurisdictions in which arms or ammunition or sulphur are manufactured or kept, and to examine the stock and accounts of receipts and sales of arms, ammunition, and military stores. Any person licensed to sell arms and ammunition shall affix a board on a conspicuous part of his shop, or usual place of business, and shall cause to be painted thereon in large letters in English, &c. in the vernacular of the district, his name and the words "licensed to manufacture," or "licensed to deal in arms, ammunition and military stores," as the case may be. He shall also have a copy of Section 28 of the Indian Arms Act posted up, in the vernacular of the district, or in English, on some conspicuous part of his usual place of business.

#### POSSESSION OF ARMS AND GOING ARMED.

12. Licenses to possess cannon shall not be granted, save under the special order of the Governor-General in Council, certified under the signature of the Secretary to the Government of India in the Home Department. A copy of such license, so certified, must be sent immediately on its issue to the District Magistrate of the place where the cannon is to be kept.

13. Licenses to possess arms and ammunition in reasonable quantities and to be armed for purposes of sport, of protection, or of display may be granted by the Commissioner of Police in the Presidency Towns, and by the Magistrate of the District outside those towns in Form VIII. Such licenses shall be liable to a fee of eight annas for each weapon in disarmed districts, and to a fee of four annas for each weapon in districts which have not been disarmed. Such a license will authorise its holder to carry the arms described in the license, on occasions when they may be reasonably required for the purposes named in the license. But the holder, unless specially authorised by the Magistrate, must not go armed in railway carriages, to fairs, religious processions, or other public assemblages. Licenses granted under this rule shall, on countersignature by the Commissioner of the Division, or other officer authorised in this regard by the Local Government where there are no Commissioners, be valid for all the districts of the Local Government within the territories of which the license may have been granted.

\*13A. Licenses to possess and carry arms in places to which Section 15 of the Indian Arms Act, 1878, applies may be granted by the District Magistrate, on plain paper and without fee, to the heirs of persons to whom arms have been presented by or under the orders of Government, in respect of any such arms which they may inherit. Such licenses shall be granted in Form VIII prescribed by Rule 13.

14. Any Commissioner of Police or Magistrate of the District may grant a license in Form IX for a journey, specifying the direction of the journey and the period it will occupy. Such license will be valid in other jurisdictions only for such journey and for such period, and will be liable to a fee of four annas for each weapon. Political Agents may grant licenses

\*Added by Government of India No. 620 dated 17th April 1884 (Gazette of India 189th (2nd)).



under this rule to natives of the States where they may be serving, and such licenses granted or journeys by Political Agents shall be liable to a fee. Holders of such licenses under this rule, unless specially authorised by the officer granting the licenses, must not go armed in railway carriages, to fairs, religious processions, or other public assemblies.

15. Licenses to possess fire-arms or ammunition in military stores in districts which have not been disarmed may be granted in Form X, without fee. Such licenses will not authorise the holders to go armed, or to carry arms. In districts which have not been disarmed, as well as in disarmed districts, licenses to possess and carry arms (Form VIII) will be liable to fees as stated in Rule 13.

16. Licenses for possession of arms and ammunition may be granted in Form XI without fee, and for a term of five years, to persons who require arms for the destruction of wild animals which do injury to human beings, cattle, or crops. Such license will be valid only in or on the immediate confines of the district for which it is granted. It will be subject to the conditions that the license and the weapon it covers is shown once a year, between the 15th November and the 31st December, to the nearest Magistrate; that the weapon becomes confiscated to Government directly it is sold or seized in execution of any debt; and that such weapon is carried only on occasions when it is to be used *bonâ fide* for the destruction of wild animals. Holders of licenses under this rule must not go armed in railway carriages, to fairs, religious processions or other public assemblages.

#### GENERAL.

\* 17. The fees leviable under these rules shall be taken in the shape of "impressed stamps." Ordinarily the applications for licenses or renewals of licenses shall be written on "impressed stamps" of value equal to the amount of fee leviable in respect of such licenses or renewals; and the licenses will be issued on plain paper. But when the licenses themselves are written, or printed on "impressed stamps" the applications may be on plain paper. When an application for a license is written on an "impressed stamp" and the license is refused, the value of the stamp will be refunded to the applicant.

\* 18. Applications for licenses in respect of which no fee is leviable, or regarding licenses on which the full fee has been paid, shall be considered to be applications within the meaning of Schedule II, Article I, Clause (a) of "the Court Fees Act, 1870," and shall bear a Court fee stamp of one anna.

19. All licenses under Rules 11 and 13 shall expire on the 31st December of the year for which they may be issued; licenses under Rule 15 shall expire on the 31st December of the 5th year of the currency. But the currency of a license may be renewed, previous to its expiration, on payment of a second fee, by the same authority that granted it.

† 19A. When a license granted in accordance with these rules is lost or accidentally destroyed, a duplicate may be granted to the licensee on payment of the same fee as he paid on the original license if not in excess of one rupee, and in any other case on payment of a fee of one rupee.

Cultivators or other persons to whom licenses may have been granted without payment of any fee, may obtain duplicates of such licenses, if lost or destroyed, free of all fee.

† 19 B. In British Burma licenses under Rule 13 may be current for such period not exceeding five years as the Deputy Commissioner shall in each case decide, provided that no such license shall be current for less than one year.

† 20. All licenses shall be given and held subject to the conditions endorsed on the reverse and subject to these rules, and subject to the provisions of the Act. Licenses under Rules 13 and 16 may be granted subject to the observance of a close season in the pursuit of game-birds or animals that do not injure either men, or cattle, or crops. The limits of the close season will be decided by the Local Government, and the condition regarding such close season, if imposed, shall be endorsed on the reverse of the license.

21. Any person holding a license, or acting under a license, granted in accordance with these rules, shall be bound to produce the same, when called upon to do so by any Magistrate or by any police officer in charge of a police station, or by any police officer of higher rank.

\* Substituted by Government of India Notification No. 1258, dated 11th July 1879.

† Added by Government of India Notification No. 1435, dated 15th September 1882.

†† Added by No. 1723, dated 16th October 1884 (*Gazette of India of 18th idem*).

‡ RULES FOR A CLOSE SEASON FOR GAME PUBLISHED IN THE PUNJAB GAZETTE OF

26TH FEBRUARY 1880.

No. 711, dated 18th February 1880.

THE Hon'ble the Lieutenant-Governor has been pleased to prescribe the following rules for a close season for game in the Punjab:—

In pursuance of the provisions of Rule 20, published in Notification No. 518 of 6th March 1879, and issued by the Governor-General in Council under Section 7 of the Indian Arms Act

22. Licenses granted for use within a district shall be written or printed in the vernacular language of such district. Licenses granted in a Presidency Town, or for use beyond the district where they may be granted, shall be in English and may be in the vernacular as well.

23. The Assistant Resident at Aden shall exercise the powers of a Magistrate in respect of the grant of licenses under these rules.

24. A license granted under these rules will cover only the weapons, or other articles and the persons named therein, unless the officer granting a license under Rule 13 or 14 deems it expedient to include the retainers of any person named in the license, in such case the entry on the face of the license shall declare how many and whose retainers are covered by the license.

25. Any officer empowered to grant a license under these rules may at his discretion refuse to grant, to renew, or to consent to the issue of, a license, or may refer any application for the orders of the Local Government.

26. All Magistrates or other authorities acting under these rules will perform their duties subject to the control of their executive superiors and of the Local Government.

### FORM I

*License to import, or transport, or possess cannon, articles designed for torpedo service, war rockets or machinery for the manufacture of arms or ammunition*

Name, &c., of license-holder and agent, if any, with residence, &c.	Number of packages	Specification of calibre, &c., of cannon or other articles	Number of articles	Place of despatch and route	Destination	Name and residence of consignee	Time for which pass is valid	Use to which articles are to be put, and specification whether the license covers importation, or transport, or possession
							From the to the 18	

18 . { Date on which copy is sent to  
the District Magistrate of the District or to the Political Officers of the State to which the articles are consigned,  
18

Secretary to Government of India,  
Home Department

This license is subject to all the provisions of the "Indian Arms Act, 1878," and of the Rules framed thereunder.

This license will be void after the expiration of the period named, or if bulk is broken before reaching the place of destination.

The articles covered by this license will be delivered only to persons lawfully entitled to possess them.

(No. XI of 1878), the Lieutenant-Governor of the Punjab is pleased to prescribe the following rules regarding a close season for game in the Punjab.

1. The close season for the game noted in Rule 2 shall be throughout the Punjab from 15th March to 15th September, both days inclusive.

2. Such close seasons may be prescribed in the case of game of the following classes, but subject to the provisions of Rule 3, there shall be no close season for any other birds or animals —

Partridges of all kinds.	Pea-fowl	Pheasants	Floricans.
Band grouse	Junco fowl	Bustard	Hares

3. In accordance with the above rule, the Deputy Commissioner of the district shall cause a description of such game only as he considers to need protection in his district, to be endorsed on the reverse of the license granted under Sections 13 and 16 of the rules made by the Government of India. The close season will then apply, in respect of the license-holder, and in the district where the license is granted, to game of the descriptions so endorsed.

4. In all districts in which the Deputy Commissioner considers it desirable, a condition may be entered on the license that deer, wild sheep and goats shall not be shot during the breeding season. The license-holder will then be bound to observe such condition.

This license must be delivered to the Magistrate of the District to which the articles are consigned, or to the Magistrate of the District where the external frontier of India is to be crossed, and the articles must be available for exhibition to such Magistrate, within six days of the consignment reaching his district.

## FORM II.

FEE TEN RUPEES IN STAMPS.

*License to transport arms, ammunition, or military stores in British India.*

Name, &c. of license-holder, and agent, if any, authorized for the purpose of this consignment.	Place of license-holder's business.	Number of packages.	ARMS		AMMUNITION		Place of despatch, route, and mode of transit.	Time for which pass is valid.	Destination.	Name and residence of consignee.
			Description.	Number.	Description.	Number or weight in seers.				
								From the 18		

Date on which consent was given by the \_\_\_\_\_ of the \_\_\_\_\_ of the \_\_\_\_\_  
 where \_\_\_\_\_  
 is the place of consignment, \_\_\_\_\_ place of despatch \_\_\_\_\_

The 18 . The 18 .

This license is subject to all the provisions of the "Indian Arms Act, 1878," and of the Rules framed thereunder.

This license is void after the expiration of the period named, or if bulk is broken before reaching the place of destination, or if the articles are taken by any route other than is specified on the license.

The contents of each package covered by this license must be described in legible letters on the outside of such package.

The articles covered by this license will be delivered only to persons lawfully entitled to possess the same.

This license must be delivered to the Magistrate of the District to which the articles are consigned, and the articles must be available for exhibition to such Magistrate, within six days of the consignment reaching his district.

The officer granting this license must send a copy thereof on the day of issue to the Magistrate of the District as above described.

NOTE.—The Governor-General in Council is pleased, under Section 17 of the Indian Arms Act, XI, of 1878, to direct that the following Note shall be added to the clauses printed on the back of Form II of the forms of licenses published with Notification No 518, dated 6th March 1879:—

## Note.

When the license is granted for transport within the limits of the same district, the license must be given up to the local Magistrate (if any) having jurisdiction in the place to which the articles are consigned, who will satisfy himself that the conditions have been complied with and return the license to the District Magistrate. The District Magistrate will send copies of any license granted by him for transport within the district to the local Magistrate having jurisdiction. Where there is no local Magistrate, the license must be returned to the Magistrate of the District. (Government of India No. 1527, dated 16th September 1884, *Gazette of India* of 20th idem).

## FORM III.

FEE TEN RUPEES IN STAMPS.

*License to import arms, ammunition or military stores into the Port of*

Name, &c, and address of license-holder.	Number of packages.	ARMS		AMMUNITION AND SULPHUR		Purpose for which required	Value of the cheapest fire-arms per piece	Place where articles are to be deposited, or to which they are to be despatched	Period for which the license is valid.
		Description	Number	Description	Weight in seers or number				
									From the of to the of 18

The of 18

Seal.

(Signature)

This license is given subject to the provisions of the "Indian Arms Act, 1878," and the Rules framed thereunder

This license becomes void after expiry of the period named thereon.

This license is valid for importation only; if the articles named herein are to be transported to any place outside the Presidency town, they must be protected by another pass for transport or export by land

The contents of each package covered by this license shall be described in legible letters on the outside of such package

## FORM IV.

FEE TEN RUPEES IN STAMPS.

*License to export arms, ammunition or military stores by sea from the Port of*

Name, &c, and address of license-holder.	Number of packages.	ARMS		AMMUNITION AND SULPHUR		Port to which consignment is to be despatched.	Period for which license is valid
		Description	Number	Description	Weight in seers		
							From the of to the of 18

Date on which copy of the license was despatched by the licensing officer to the Indian Port of any to which the consignment is to be despatched.

The of 18

Seal.

(Signature)  
of

This license is not valid for export to any Indian Port, other than that named on the license.

## FORM V.

FEE FIVE RUPEES IN STAMPS.

*License to export arms, ammunition, or military stores under Rule 7 of the Rules made under Section 17 of the Indian Arms Act, 1878.*

Name, &c., of license-holder and agent, if any	Number of packages.	ARMS.		AMMUNITION OR MILITARY STORES		Place of despatch and route	Purpose for which consignment is required.	Destination Name and residence of consignee	Period for which license is valid
		Description	Number	Description.	Weight or number.				
									From the      of 18 to the      of 18

Secretary to the Government of India,  
Foreign Department.

The      188

It is valid only for the period and the route named therein.

It becomes invalid if bulk is broken, or the consignment stopped at any place on the journey.

It is given subject to the provisions of the "Indian Arms Act, 1878," and of the Rules framed thereunder.

The contents of each package covered by this license shall be described in legible letters on the outside of such package.

The license must be delivered to the Railway authorities or to the frontier District Magistrate, or other officer empowered by him to receive export licenses on his behalf as provided in Rules 7 and 10. In the case of consignments crossing the frontier by road or river, the arms must be made available for exhibition to the frontier Magistrate or other principal officer within 6 days of their reaching the frontier district and before they leave British territory.

## FORM VI.

FEE TWENTY RUPEES IN STAMPS

*License to manufacture, convert, or sell or keep arms, ammunition and military stores.*

Name, &c. of license-holder and place of residence.	Place of business, factory, and shop.	DESCRIPTION OF ARMS.		DESCRIPTION OF AMMUNITION AND MILITARY STORES.		Date on which license expires.
		To be manufactured.	To be kept and sold	To be manufactured.	To be kept and sold.	
						The 31st of December 18

Seal.

(Signature)

\* This license is given subject to the provisions of the "Indian Arms Act, 1878," and the Rules framed thereunder. The special attention of the holder is drawn to Sections 16, 21, 22 and 28 of the Act.

The license-holder shall keep records and accounts of all arms made or converted; of all ammunition manufactured; of all stock in hand, and of all sales in such form as the Local Government may from time to time direct.

The license-holder shall exhibit his stock and his books of manufacture and sales to any Magistrate or to any police officer not below the rank of Inspector, when such officer may call upon him so to do.

The license-holder shall affix to his shop or place of business a sign-board as required by Rule 11, and shall post up in his shop a copy of Section 28 of the Act.

## FORM VII.

FEE TEN RUPEES IN STAMPS.

License to keep and sell arms, ammunition, and military stores.

Name, &c., of license-holder and residence.	Place of business.	DESCRIPTION OF		Date on which license expires.
		Arms.	Ammunition and military stores.	
				The 31st of December 18.

DISTRICT, }

18 . }

Seal.

(Signature.)

of

\* This license is given subject to the provisions of the "Indian Arms Act, 187," and the Rules framed thereunder. The special attention of the holder is drawn to Sections 16, 21, 22 and 28 of that Act.

The license-holder shall keep records and accounts of all arms and ammunition in stock, and of all sales, in such form as the Local Government may from time to time direct.

The license-holder shall exhibit his stock, his records of sales, &c., to any Magistrate or to any Police Officer not below the rank of Inspector, when such officer may call upon him so to do.

The license-holder shall affix to his shop a sign-board as required by Rule 11 and shall post up in his shop a copy of Section 28 of the Act.

\* The following to be added to the endorsement on Forms VI and VII;

i. The license-holder shall at the time of purchase endorse upon the license of every purchaser holding a license under Form VIII or IX the following particulars:—

(1) the name and address of the person who takes delivery of the articles sold.

(2) the nature and amount of the articles sold.

(3) the date of sale;

and shall append his signature to the endorsement.

This license only covers sales of arms, ammunition, or military stores effected upon the premises shown on the face of the license.—(Governor of India Notification No. 2100, dated 23rd December 1881, and No. 474, dated 22nd March 1882.)

The license-holder shall not sell arms to a soldier of the Native Army, unless he produce a written pass or permit signed by his Commanding Officer, and then only to the extent and on the conditions specified in such pass.—(No. 1195, dated 10th July 1885, Gazette of India of 11th idem.)

ii. For special endorsement for licenses granted in Burma see No. 2195, dated 16th August 1885, Gazette of India of 16th idem, Part I, page 2195.

## FORM VIII.

FEE EIGHT ANNAS FOR EACH WEAPON IN  
DISARMED DISTRICTS, FOUR ANNAS FOR  
EACH WEAPON IN OTHER DISTRICTS, PAY-  
ABLE IN STAMPS.

*License to possess arms or ammunition and to go armed for purposes of sport, protection,  
or display.*

Name, &c., of license- holder, with parti- culars of residence.	Number of re- tainers, if any, who may be covered by the license (Rule 23).	Description and number of weapons covered by license.	Purpose for which granted.	District or place within which license is valid.	Term from which license expires.
					The 31st of December 18 .

The

of

18 .

Seal.

(Signature)

of the

\* This license is granted subject to the provisions of the "Indian Arms Act, 1878," and the Rules framed thereunder.

It covers only the persons and the arms named therein, unless it is certified to cover retainers of the holder.

It is void after the date named therein.

It extends only to the place or district named therein, unless countersigned for the whole province by the Commissioner or other superior officer.

It authorizes the holder or persons acting under it to go armed within the place or district named for *bond fide* prosecution of the purpose named on the license; but it does not permit the holder or persons aforesaid to go armed in railway carriages, to fairs, religious processions or other public assemblages.

## FORM IX.

FEE FOUR ANNAS FOR EACH WEAPON PAY-  
ABLE IN STAMPS FOR LICENSES, GRANTED  
IN BRITISH INDIA; FREE OF ALL FEES FOR  
LICENSES GRANTED BY POLITICAL AGENTS  
TO SUBJECTS OF NATIVE STATES.

*License to go armed—On a journey.*

Name, &c., of license- holder, with parti- culars of his resi- dence.	Number of re- tainers, if any, who may be covered by the license (Rule 23).	Description of arms and ammunition covered by this license.	Place of departure, route, and destination of journey.	Time which jour- ney will probably take.	Date from which, and to which, the license is valid
					From the of 18 to the 18 of 18

of

18

Seal.

(Signature)

of

District.

\* The following to be added to the endorsements on Forms VIII and IX:—

The license-holder shall at the time of purchase have the following particulars endorsed upon his license by the vendor from whom he purchases and under the vendor's signature:—

- (1) the name and address of the person who takes delivery of the articles purchased;
- (2) the nature and amount of the articles purchased;

(3) the date of purchase.—(Government of India Notification No. 2100, dated 23rd December 1891).





This license is granted subject to the provisions of the "Indian Arms Act, 1878," and the Rules framed thereunder.

The holder is bound to show his license and weapon once a year to the Magistrate.

This license is void if the holder sells his weapon; if it is seized in execution of decree; if it is carried to any considerable distance beyond the limits of the places named in the license; or if he fails to show it once a year to the Magistrate aforesaid.

It is void on the death of the holder

The holder must not go armed in railway carriages, to fairs, religious processions, or other public assemblages.

The holder is bound to observe a close season as prescribed by the Local Government in respect to the under-mentioned game-birds and animals which do no injury to men, cattle, or crops:

*Specification of animals or birds*

*Close season.*

(Government of India Notification No 518, dated 6th March 1879).

The following rules have been made by the Lieutenant-Governor under the Arms Act (Act XV of 1878), and under Government of India Resolution No 518, dated 6th March 1879, and are notified for general information:—

#### POWERS

I.—The Lieutenant-Governor is pleased to empower all Magistrates and all Police Officers not below the rank of officer in charge of a station to detain arms, ammunition, or military stores under Section 6.

II.—The Lieutenant Governor is pleased to empower all Police Officers not below the rank of officer in charge of a station to conduct searches under Section 25.

III.—All Police Officers of rank not below that of officer in charge of a station are appointed, in virtue of their office, to conduct searches under Section 30

STOCK AND ACCOUNT BOOKS TO BE KEPT BY LICENSED MANUFACTURERS AND DEALERS.

IV.—All persons holding licenses to manufacture, convert, keep, and sell arms, ammunition or military stores shall keep up stock books and accounts of receipts and issued in the Forms A and B of the Appendix to these rules: and all persons holding licenses to keep or sell arms, ammunition, or military stores shall maintain stock and account books in Forms C and D.

The pages of these books are to be numbered, and before any entries are made the books shall be exhibited, together with the manufacturer's or dealer's license, to the Magistrate of the District or to a subordinate Magistrate

Such Magistrate will sign the first and last pages of each book and seal them with his official seal

V.—The shops, premises, and stocks of all licensed manufacturers and dealers shall be inspected once in every quarter, by a Police Officer not below the rank of Assistant District Superintendent of Police, or Inspector where there is no Assistant District Superintendent, and once at least in every year by the District Superintendent of Police.

At the time of inspection the books shall be initialled by the inspecting officer

Any irregularity or breach of the rules which may be noticed shall be at once reported to the Magistrate of the District

VI.—On receiving notice of a sale under Clause 2, Section 5, by a person lawfully possessing arms to any person not prohibited from possessing the same, the Magistrate or Police Officer may make inquiries as to the correctness of the purchaser's name and address, and if necessary obtain a report from the Superintendent of Police of the district in which the purchaser lives.

#### ARMS DEPOSITED IN A POLICE STATION

VII.—When any arms, ammunition, or military stores have been deposited at a police station under Section 14 or 16 of the Act, the officer in charge of the station shall affix to each weapon or article a ticket showing the name of depositor and the date of deposit, and shall give the depositor a duplicate or copy of the same.

After seven days, if the owner has not obtained a license authorising him to possess them, the arms, ammunition, or military stores shall be forwarded to the head-quarters of the district, and kept in the malkhana of the Magistrate of the District or in the Police Magazine.

The sheriff or other ministerial officer to whom they are entrusted shall keep a register in which the articles so deposited shall be described and entered under serial numbers, and fresh tickets shall be affixed showing the owner's name and the corresponding number of the register.

#### ARMS AND MILITARY STORES SEIZED.

VIII.—Arms, ammunition, or military stores seized under Sections 11, 25, or 26 shall be similarly dealt with.

#### DISPOSAL OF CONFISCATED ARMS.

IX.—Arms, ammunition, or military stores that have become forfeited to Her Majesty under Sections 14 and 16, or that have been confiscated under Section 24, shall be disposed of as follows:

If they can be utilised by the Police or any other Department of Government, they may be preserved and used.

If unserviceable or unsuitable for such use, they may be sold to persons entitled to possess such arms, ammunition, or military stores, or broken up, and the materials sold and the proceeds credited to Government.

Ammunition and military stores not so disposed of within a reasonable time shall be destroyed.

Gunpowder and explosive materials shall be lodged in the Police Magazine.

#### REWARDS TO INFORMERS.

X.—When any arms or other articles are confiscated under Section 24, the convicting Magistrate shall, immediately upon conviction, pay a reward of not less than half the value of the confiscated article to the person or persons who may have given information which led to the detection of the offence, or who may have assisted in the arrest of the offenders and seizure of the arms or other articles.

Such payments will be chargeable to Law and Justice, and be drawn by Magistrates in their contingent bills.

XI.—Any Magistrate convicting an offender of any offence under the Act may at his discretion grant a reward not exceeding the amount of fine imposed, in such proportions as he may think fit, to any person or persons who have contributed to the arrest of the offender or to the seizure of the arms or other articles.

#### REGISTERS OF LICENSES.

XII.—Every Magistrate of a district shall keep up in Form E of the Appendix to these rules a register of all licenses to manufacture, convert, keep or sell, granted by him under Rule 11 of the rules issued by the Government of India, and shall keep up in Form F a register of all licenses to keep or sell granted by him under the same rule.

All District Superintendents of Police shall keep up similar registers in English. Magistrates of Districts will supply to their District Superintendents of Police copies of all such licenses issued by them.

The District Superintendent of Police will furnish to each officer in charge of a Police station copies of extracts, columns Nos. (1) to (6), giving the names, &c., of persons licensed within his jurisdiction.

XIII.—All inspections of the shops, premises and stocks of licensed manufacturers and vendors by Inspectors of Police or superior officers shall be reported to the Magistrate of the District, and shall be entered in the registers.

XIV.—Registers of licenses granted by the Magistrate of the District under Rules 13, 15, and 16 of the rules made by the Government of India shall be kept up by him in Forms G, H., and I. respectively.

Similar registers will be kept up in English by the District Superintendent of Police, to whom the Magistrate of the District will furnish copies of all such licenses granted by him.

The District Superintendent of Police will supply each officer in charge of a station with an extract giving the parts of each register which concern his jurisdiction.

XV.—In place of the returns prescribed in Circular No. 7-669, dated 28th April 1867, and No. 12-944, dated 21st June 1867, the Lieutenant-Governor is pleased to direct that the Forms K, L. of the Appendix to these Rules be used.

Both returns will be prepared for the calendar year, and be submitted through Commissioners to the Inspector-General of Police.

FORM A.

Stock Book of \_\_\_\_\_, son of \_\_\_\_\_, caste \_\_\_\_\_, resident of \_\_\_\_\_, licensed to manufacture, convert, sell, or keep arms, ammunition, or military stores.

1	2	3	4	5	6	7	8	9	10	11	12
Date.	PARTICULARS.	DESCRIPTION.						Ammunition.	Military stores, including lead, sulphur, and saltpetre.	Name and address of the dealer or firm supplying the articles received.	Signature of licensee.
		Fire-arms.		Other weapons.							
		Guns.	Pistols.	Swords.	Bayonets.	Daggers.	Other.				
January 1st.	In store—										
	Manufactured.										
January 2nd.	Received.										
	Disposed of.										
	In store.										

FORM B.

Daily Sale Book of \_\_\_\_\_, son of \_\_\_\_\_, caste \_\_\_\_\_, resident of \_\_\_\_\_, licensed to manufacture, convert, or sell or keep arms, ammunition, and military stores.

1	2	3	4	5	6	7
Date.	Name and father's name of purchaser.	Caste and profession of purchaser.	Residence of purchaser.	Articles purchased.	Price.	Signature of purchaser and dealer.

FORM C.

Is the same as Form B, except that in heading for words "licensed to manufacture," &c. read "licensed to keep and sell," &c., and in Column 2 omit the word "manufacture."

FORM D.

Is the same as Form B, except that in heading for the words "licensed to manufacture," &c. read "licensed to keep and sell," &c.

FORM E.

Registers of licensees to manufacture, convert, keep or sell arms, ammunition, or military stores in \_\_\_\_\_ District.

1	2	3	4	5	6	7	8
Tahsil.	Number.	Name of licensee.	Father's name and caste and residence.	Place of business.	Date.	INSPECTION BY	REMARKS.
						Inspectors of Police.	
						1st 2nd 3rd 4th.	
						By Magistrate of District or Superintendent of Police.	

FORM F.

Is the same as Form E, except that in heading for "licensed to manufacture," &c. read "licensed to keep and sell," &c.

FORM G.

Register of licensees to possess arms or ammunition, and to go armed for purposes of sport protection, or display in \_\_\_\_\_ District.

1	2	3	4	5	6	7	8
Tahsil.	Number.	Date.	Name of license-holder.	Father's name, caste, &c.	Residence.	Number and description of weapons.	REMARKS.

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## ARMS.

## FORM H.

Register of licenses to possess arms, ammunition, or military stores in a district which has not been disarmed.

District \_\_\_\_\_

				8	9	10
The first seven columns as in Form G.				Place where the arms are to be kept.	Term for which license is valid.	REMARKS.

## FORM I.

Register of licenses to possess arms and ammunition for the purpose of destroying wild animals in \_\_\_\_\_ District.

1	2	3	4	5	6	7	8	9	10	11
Tail Number	Date	Name of license-holder.	Father's name and caste.	Residence.	Place for which license valid.	Weapon.	Date of expiry of license.	INSPECTIONS BY MAGISTRATE OF WEAPONS AND LICENSES.		
								1st year.	2nd year.	3rd year.
								4th year.	5th year.	6th year.

## FORM K.

Return of licenses granted under Act XI. of 1878 in the District of \_\_\_\_\_ for the year \_\_\_\_\_

1	2	3	4	5	6	7	8
Detail of licenses.	No. of licenses in force last year.	OPERATIONS OF THE YEAR.			No. in force at end of present year.	Remarks by Deputy Commissioner.	Remarks by Commissioner.
		New licenses.	Renewed licenses.	Revoked or suspended.			
1 In Form II. to transport arms, ammunition, or military stores.							
2 In Form VI. to manufacture, convert, or sell or keep.							
3 In Form VII. to keep and sell.							
4 In Form VIII. to possess arms or ammunition and to go armed for purposes of sport protection, or display.							
5 In Form IX. to go armed on a journey.							
6 In Form X. to possess arms, ammunition, or military stores in a district which has not been disarmed.							
In Form XI. to possess arms or ammunition for the purpose of destroying wild animals.							

## FORM L.

Annual Statement of the operation of the Arms Act XI. of 1878 in the District of  
for the year

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25
NUMBER OF PERSONS PUNISHED UNDER													NUMBER AND DESCRIPTION OF WEAPONS CONFISCATED;											
Section 19 for offences under																								
Clause a.	Clause b.	Clause c.	Clause d.	Clause e.	Clause f.	Clause g.	Clause h.	Clause i.	Section 20, for secret breaches															
									Section 21, for breach of license															
									Section 22, for knowingly purchasing from an unlicensed person or delivering to person not authorized to possess.															
									Section 23, for failure to give information as required in Section 28															
									Total punished (Columns 1 to 13).															
									Rifles.															
									Smooth-bore guns.															
									Pistols.															
									Swords.															
									Bayonets.															
									Daggers or knives.															
									Spears.															
									Others.															
									Value of fines imposed and realised.															
									Amount paid as rewards to informers, &c.															
									REMARKS.															

This return will be submitted yearly through Commissioners, to the Inspector-General of Police.

Deputy Commissioner.

(Punjab Government Notification No. 1956, dated 19th May 1879).

## Act No. XII of 1878.

(Passed on the 28th March 1878).

An Act for the further amendment of the Punjab Laws Act, 1872.

## Preamble.

Substitution of new section for Act IV of 1872, Section 5.

For the purpose of further amending the Punjab Laws Act, 1872; It is hereby enacted as follows:—

1. For Section 5 of the said Act, the following shall be substituted (namely):—

(See Act IV of 1872, S. 5).

Substitution of new sections for Act IV of 1872, Sections 9 to 18.

2. For Sections 9—18 (both inclusive) of the same Act, the following shall be substituted:—

(See Act IV of 1872, SS. 9—18).

Substitution of new section for Act IV of 1872, Section 35.

3. For Section 35 of the same Act the following shall be substituted (namely):—

(See Act IV of 1872, S. 35).

Amendment of Act IV of 1872, Section 38.

4. To Section 38 of the same Act the following clause shall be added, (namely):—

(See Act IV of 1872, S. 38).

Amendment of Act IV of 1872, Section 40.

5. To Section 40 of the same Act shall be added the words 'and may withdraw any powers so conferred.'

Amendment of Act IV of 1872, Sections 43, 44 and 47.

6. In Sections 43, 44, and 47 of the same Act the words 'with the consent and' shall be omitted.

7. Whoever breaks any rule made by the Local Government under the same Act shall be punished with imprisonment for a term which may extend to six months, with fine which may extend to fifty rupees, or with both. All penalties inflicted since the fifteenth day of July 1875, which might have been inflicted if this section had been in force, shall be deemed to have been inflicted in accordance with law.

Recovery of advances made by Government 8. To the same Act the following section shall be added :—

(See Act IV of 1872, S. 52).

### ACT No. XVII of 1878.

(Passed on the 9th November 1878).

An Act to regulate Ferries in Northern India.

Preamble Whereas it is expedient to regulate ferries in the Punjab, the North-Western Provinces, Oudh, the Central Provinces, Assam, and Ajmere and Merwara; It is hereby enacted as follows :—

#### I.—PRELIMINARY.

Short title

1. This Act may be called "The Northern India Ferries Act 1878."

Local extent

It extends only to the territories respectively administered by the Lieutenant-Governors of the Punjab and the North-Western Provinces and the Chief Commissioners of Oudh, the Central Provinces, Assam, and Ajmere and Merwara.

Commencement

It shall come into force in each of the said territories on such date as the Local Government may, by notification in the official Gazette, fix in this behalf.

NOTE—The Act came into force in the Punjab on the 1st April 1881 — (Punjab Government Notification No 1168, dated 24th March 1881 Punjab Gazette of same date)

Repeal.

2. On and from the date on which it comes into force in the territories respectively administered by the Lieutenant-Governor of the North-Western Provinces and the said Chief Commissioners, Bengal Regulation VI of 1819 shall be repealed therein; but all determinations, declarations, orders, and rules made, engagements entered into, and securities taken under the Regulation, and then in force, shall be deemed to be respectively made, entered into, and taken under this Act.

Interpretation-clause.

3. In this Act the word "ferry" includes also a bridge of boats, pontoons, or rafts, a swing-bridge, a flying-bridge, and a temporary bridge, and the approaches to, and landing-places of, a ferry.

#### II.—PUBLIC FERRIES.

Power to declare, establish, define, and discontinue public ferries.

4. The Local Government may from time to time—

\* (a) declare what ferries shall be deemed public ferries, and the respective districts in which, for the purposes of this Act, they shall be deemed to be situate;

(b) take possession of a private ferry and declare it to be a public ferry;

(c) establish new public ferries where, in its opinion, they are needed;

- (d) define the limits of any public ferry ;
- (e) change the course of any public ferry ; and
- (f) discontinue any public ferry which it deems unnecessary.

Every such declaration, establishment, definition, change, or discontinuance shall be made by notification in the official Gazette :

Provided that, when a river lies between two provinces, the powers conferred by this section shall, in respect of such river, be exercised by the Governor-General in Council, by notification in the *Gazette of India*, and not otherwise :

Provided also that, when any alteration in the course or in the limits of a public ferry is rendered necessary by changes in the river, such alteration may be made by an order under his hand by the Commissioner of the Division in which such ferry is situate, or by such other officer as the Local Government may, from time to time, appoint, by name or in virtue of his office in this behalf.

NOTE — For List of Ferries declared to be "Public Ferries" under this section, see Notes (a) and (aa) at end of the Act

5. Claims for compensation for any loss sustained by any person in consequence of a private ferry being taken possession of under Section 4 shall be enquired into by the Magistrate of the District in which such ferry is situate, or such officer as he appoints in this behalf, and submitted for the consideration and orders of the Local Government.

6. The immediate superintendence of every public ferry shall, except as provided in Section 7 and Section 7, A be vested in the Magistrate of the District in which such ferry is situate, or in such other officer as the Local Government may, from time to time, appoint by name or in virtue of his office in this behalf ; and such Magistrate or officer shall, except when the tolls at such ferry are leased, make all necessary arrangements for the supply of boats for such ferry, and for the collection of the authorized tolls leviable thereat.

NOTE — (a) It has been notified under this section that the superintendence of the ferries, a list of which is given, shall be vested in the Executive Engineers of the Divisions within which they are situated during the time that they are maintained as bridges of boats — (*Punjab Government Notification No 1361, dated 5th April 1881 — Punjab Gazette of 14th idem*)

(b) Notice is hereby given that under Section 6 of Act XVII of 1878 (The Northern India Ferries Act), the superintendence and arrangements for the management and for the collection of the authorised tolls leviable at the Chenab ferry at Wazirabad, and the bridge over the Palkhu stream at Wazirabad, have been transferred from the charge of the Deputy Commissioner of Gujrāt to the charge of the Deputy Commissioner of Gujrānwāla. (*Punjab Government Notification No 3044, dated 28th November 1884, Punjab Gazette of 4th December 1884, Part I, page 1200*)

7. The Local Government may direct that any public ferry situate within the limits of a town be managed by the officer or public body charged with the superintendence of the municipal arrangements of such town ;

and may further direct that all or any part of the proceeds from such ferry be paid into the Municipal Fund of such town ;

and thereupon such ferry shall be managed, and such proceeds or part thereof shall be paid, accordingly.

NOTE — See Punjab Government Notification No 1393, dated 22nd May 1886, *Punjab Gazette of 27th idem, Part I, page 308*.

**7A.** The Local Government may direct that any public ferry, wholly or partly within the area subject to the authority of a district board or local board in any district in the territories under the administration of the Lieutenant-Governor of the Punjab, shall be managed by that board, and may further direct that all or any part of the proceeds from such ferry be paid into the district fund; and thereupon such ferry shall be managed, and such proceeds or part thereof shall be paid, accordingly.

NOTES.—(a) Added by Act XX of 1883, Section 78. See also Act I of 1883, Section 43 and Act XIV of 1883, Section 64, which enact a similar section for the Central Province, and N. W. P. and Oudh.

(b). See Punjab Government Notification No 1392, dated 22nd May 1886, *Punjab Gazette* of 27th idem, Part I, page 305, No 2611, dated 5th December 1887, *Punjab Gazette* of 8th idem, Part I, page 630, and No. 2776, dated 15th December 1883, *Punjab Gazette* of 20th idem, Part I, Page 781

**8.** The tolls of any public ferry may, from time to time, be let by public auction for a term not exceeding five years with the approval of the Commissioner, or by public auction, or otherwise than by public auction, for any term with the previous sanction of the Local Government.

The lessee shall conform to the rules made under this Act for the management and control of the ferry, and may be called upon by the officer in whom the immediate superintendence of the ferry is vested, or, if the ferry is managed by a municipal or other public body under Section 7 or Section 7A, then by that body, to give such security for his good conduct and for the punctual payment of the rent as the officer or body, as the case may be thinks fit.

When the tolls are put up to public auction, the said officer or body, as the case may be, or the officer conducting the sale on his or its behalf, may, for reasons recorded in writing, refuse to accept the offer of the highest bidder, and may accept any other bid, or may withdraw the tolls from auction.

NOTE.—As amended by Act III of 1886, Section 1

**9.** All arrears due by the lessee of the tolls of a public ferry on account of his lease may be recovered from the lessee or his surety (if any) by the Magistrate of the District in which such ferry is situate as if they were arrears of land-revenue.

**10.** The Local Government may cancel the lease of the tolls of any public ferry on the expiration of six months' notice in writing to the lessee of its intention to cancel such lease.

When any lease is cancelled under this section, the Magistrate of the district in which such ferry is situate shall pay to the lessee such compensation as such Magistrate may, with the previous sanction of the Local Government, award.

**11.** The lessee of the tolls of a public ferry may surrender his lease on the expiration of one month's notice in writing to the Local Government of his intention to surrender such lease, and on payment to the Magistrate of the District in which such ferry is situate of such compensation as such Magistrate, subject to the approval of the Commissioner, may in each case direct.



**12. Subject to the control of the Local Government, the Commissioner**

**Power to make rules.** of a division, or such other officer as the Local Government may, from time to time, appoint in this behalf, by name or in virtue of his office, may, from time to time, make rules consistent with this Act—

(a) for the control and the management of all public ferries within such division and for regulating the traffic at such ferries ;

(b) for regulating the time and manner at and in which, and the terms on which, the tolls of such ferries may be let by auction, and prescribing the persons by whom auctions may be conducted ;

**NOTE**—Clause (b) is as amended by Act III of 1886, Section 1

(c) for compensating persons who have compounded for tolls payable for the use of any such ferry when such ferry has been discontinued before the expiration of the period compounded for ; and

(d) generally to carry out the purposes of this Act ;

and, when the tolls of a ferry have been let under Section 8, such Commissioner or other officer may, from time to time (subject as aforesaid), make additional rules consistent with this Act—

(e) for collecting the rents payable for the tolls of such ferries ;

(f) in cases in which the communication is to be established by means of a bridge of boats, pontoons, or rafts, or a swing-bridge, flying-bridge, or temporary bridge, for regulating the time and manner at and in which such bridge shall be constructed and maintained and opened for the passage of vessels and rafts through the same, and

(g) in cases in which the traffic is conveyed in boats, for regulating (1) the number and kinds of such boats and their dimensions and equipment; (2) the number of the crew to be kept by the lessee for each boat; (3) the maintenance of such boats continually in good condition; (4) the hours during which, and the intervals within which, the lessee shall be bound to ply, and (5) the number of passengers, animals and vehicles, and the bulk and weight of other things, that may be carried in each kind of boat at one trip.

The lessee shall make such returns of traffic as the Commissioner or other officer as aforesaid may from time to time require.

**13. Except with the sanction of the Magistrate of the District or of**

Private ferry not to ply within two miles of public ferry without sanction

such other officer as the Local Government may, from time to time, appoint in this behalf, by name or in virtue of his office, no persons shall establish, maintain or work a ferry to or from any point within a distance of two miles from the limits of a public ferry.

Provided that, in the case of any specified public ferry, the Local Government may, by notification in the official Gazette, reduce or increase the said distance of two miles to such extent as it thinks fit :

Provided also that nothing hereinbefore contained shall prevent persons plying between two places, one of which is without, and one within, the said limits, when the distance between such two places is not less than three miles, or apply to boats which do not ply for hire or which the Local Government expressly exempts from the operation of this section.

**NOTE**—As amended by Act III of 1886, Section 2.

Person using approaches,  
&c, liable to pay.

14. Whoever uses the approach to, or landing-place of, a public ferry is liable to pay the toll payable for crossing such ferry.

15. Tolls, according to such rates as are from time to time fixed by the Local Government, shall be levied on all persons, animals, vehicles, and other things crossing any river by a public ferry, and not employed or transmitted on the public service:

Provided that the Local Government may, from time to time, declare that any persons, animals, vehicles, or other things shall be exempt from payment of such tolls.

Where the tolls of a ferry have been let under Section 8, any such declaration, if made after the date of the lease, shall entitle the lessee to such abatement of the rent payable in respect of the tolls as may be fixed by the Commissioner of the division, or such other officer as the Local Government may, from time to time, appoint in this behalf by name or in virtue of his office.

NOTE.—For rates of toll, exemptions, &c, under this section, see Notes (b), (c), (d), (e) at end of Act.

This section has been amended by Act III of 1886, Section. 1

16. The lessee or other person authorized to collect the tolls of any public ferry shall affix a table of such tolls, legibly written or printed in the vernacular language, and also, if the Commissioner of the division so directs, in English, in some conspicuous place near the ferry,

and shall be bound to produce, on demand, a list of the tolls, signed by the Magistrate of the District or such other officer as he appoints in this behalf.

17. Except as provided by Section 7, and Section 7A, all tolls, rents, and compensation received by or on behalf of Government, and all fines levied under this Act, shall be disposed of as follows, that is to say—

(a) in the territories administered by the Lieutenant-Governor of the North-Western Provinces, the residue of such tolls, rents, compensation and fines, after defraying thereout all charges incurred in carrying out this Act in those territories, shall be credited to the fund constituted for those territories by the North-Western Provinces Local Rates Act, 1878;

(b) in the territories administered by the Chief Commissioner of Oudh, the residue as aforesaid shall be credited to the fund constituted for those territories by the Oudh Local Rates Act, 1878 ;

(c) in the territories respectively administered by the Lieutenant-Governor of the Punjab and the Chief Commissioner of the Central Provinces, such tolls, rents, compensation, and fines shall be credited to the Local Government, and applied, first to defraying all charges incurred in carrying out this Act in those territories respectively, and then, at the discretion of the Local Government, to any of the purposes specified in the second clause of Section 7 of the Punjab Local Rates Act, 1878, or the second clause of Section 5 of the Central Provinces Additional Rates Act, 1878, as the case may be, and

(d) in the territories respectively administered by the Chief Commissioner of Assam and the Chief Commissioner of Ajmere and Merwara, such tolls, rents, compensation, and fines shall be credited to the Local Government and applied, first, to defraying all charges incurred in carrying out this